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RESTRICTIVE TRADE PRACTICES COMMISSION

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LOSS LEADER SELLING

TRANSCRIPT OF EVIDENCE

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RESTRICTIVE TRADE PRACTICES COMMISSION

IN THE MATTER OF

an inquiry

Regarding Loss-Leader Selling

Hearing held (in public) in the Senate Chamber, University of Toronto, Tuesday, June 1st, 1954.

PRESENT

C. Rhodes Smith, Q. C., M.A., LL.B., D.C.L.
Chairman

Guy Favreau, Q.C., B.A., LL.B.,
Member

A. S. Whiteley, B.A., M.A.,
Member.

APPEARANCES:

Mr. N. W. Wickwire, Q.C.,)
and) Counsel for the Commission
Mr. Paul Gerin-Lajoie)

Representations: Page

TORONTO, TUESDAY, JUNE 1ST 1954.

Delegation from: CANADIAN WHOLESALE HARDWARE ASSOCIATION.

Comprising:
Mr. J.T. Crowder, Secretary-Manager.
Mr. R A.H. Taylor, Dominion President.
Mr. E. Bird, Cochrane-Dunlop Company.
Mr. L. Ross, White Hardware, Toronto.
Mr. Chater, White Hardware, Toronto.
Mr. H. Richard, White Hardware, Toronto.
Mr. D. Stewart, Howdens of London.
Mr. F. Erskine, Wood-Alexander, Hamilton.

---The hearing commenced at 10.00 a.m.

THE CHAIRMAN: Gentlemen, the hearing will come to order. This morning we are to have a brief presented on behalf of the Canadian Wholesale Hardware Association.

I might say for the benefit of those who will be speaking, that the practice usually is, generally found convenient, for one member of the delegation to read the brief and make any comments that he desires to make in the course of reading it or at the end of reading it, or a combination of both; then any other member of the delegation that desires to speak may make his observations, after which there will be questions and general discussion.

Who is going to lead off, Mr. Crowder? If you would just let us have the names of your

delegation and whom they are representing.

MR. CROWDER: J.T. Crowder, Secretary-Manager of the Canadian Whole-sale Hardware Association. Mr. R.A.H. Taylor, Dominion President of the organization from New Liskeard. Mr. Edward Bird of the Cochrane-Dunlop Company who have a number of branches throughout Northern Ontario. Mr. L. Ross of White Hardware, Toronto; Mr. Chater of White Hardware, Toronto; Mr. Howard Richard of the White Company.

We also expect Mr. Dave Stewart of Howdens, London, from the Ontario group. He was due here at 10.00 o'clock unless there has been some accident. We also expect Mr. Frank Erskine, Wood-Alexander, Hamilton.

I should explain, Mr. Chairman, that that will be 100% representation because there are only that number of wholesalers in this area. The brief before you is very fully representative of the industry here. I have brought enough extra copies of this, Mr. Chairman. It has not been changed from what I sent to you in Ottawa, the memorandum re loss-leaders and premiums.

"MEMORANDUM RE LOSS LEADERS AND PREMIUMS

"The Wholesale Hardware Distributors "of Canada are keenly interested in the welfare of the Retail Hardware Dealers who do about three hundred million dollars worth of business per annum. To satisfy this

demand, goods must be available in the quantities required by the retailers, with prompt delivery.

"We are also very much interested in the welfare of the manufacturers, from whom we must be able to obtain a continuous flow of supplies as required, with prompt delivery.

"The margin of profit available for wholesale distribution in such a large industry is necessarily small. Anything that tends to disturb this prompt distribution adds to the cost, and must be avoided. In other words the service from the manufacturer to the wholesaler, and the service from the wholesaler to the retailer must be maintained in the most efficient manner possible, for the sake of everyone concerned - the wholesaler in particular.

"It has been our experience in the last two years that hardware items, used for loss leaders and premiums by a considerable number of retailers and manufacturers, have had a most disturbing effect upon our customers and our sources of supply. We are assuming that the manufacturers and retailers, who will appear before this Commission, will give many details of these instances.

"Therefore, we will not mention

them specifically, but we do know that loss leaders used by retailers in other lines of business, such as the grocery trade, offer standard lines of hardware (normally sold by our retailers), at very low prices to attract customers to those other stores in order for them to sell their own lines of merchandise.

"Regular hardware items carrying branded names are used as premiums from time to time by manufacturers of tea, coffee, breakfast foods, detergents and other commodities. These premiums are offered in a variety of ways, but the main objective is to offer the public some article like kitchen scissors, carving sets, chrome plated table knives, and other items at a very low price with a box top or other coupons.

"It should not be necessary for a breakfast food manufacturer to look about for an item of hardware to give away or sell at a low price if he is making too much money on his own merchandise. The breakfast food we have in mind particularly, now sells at 33¢ for two packages, and is very well known throughout Canada. Years ago the same product made exactly as it is today sold at two packages for 23¢. If the additional 10¢ on this

item is more than the manufacturer needs, and he wants to give something away, why does he not simply reduce his price to the consumer, and sell this again at 23¢ like he used to?

"Another illustration of this was the case of the chain grocery store in Montreal that offered kitchen scissors for a penny a pair, which would normally have sold for about $1.00 in the average hardware store. These were cast steel scissors of good quality, imported from Germany, estimated to cost about 50¢ a pair laid-down in Montreal. These were offered to anyone who would purchase $5.00 worth of groceries on Monday, Tuesday or Wednesday of any week. This is equal to a 10% discount on the groceries sold. Why would it not be reasonable to expect the grocer to lower the price of his groceries by 10%?

"These premiums and cut prices give the consuming public a false impression of the value of the commodity, and make it utterly impossible for the established retailer to sell scissors or other commodities on anything like a profitable basis while these premiums and loss leaders are being offered to the public.

"This policy not only disturbs the retail trade and makes it impossible

for them to sell these lines of merchandise, but it also disturbs the regular distribution by manufacturers.

"Whenever a well-known article is being offered as a premium or a loss leader the manufacturer's distribution is upset and he often objects violently to this practice, but the present legislation prevents a manufacturer from maintaining a resale price, and makes it illegal for said manufacturer to refuse to sell any distributor who cuts his price by giving that as a reason.

"It is our considered opinion that the law of Canada should allow the manufacturer of a patented, copyrighted or nationally advertised product to establish and maintain resale prices on such products, if he so desires, and that the present legislation should be amended to that effect.

"If that is impossible, we suggest that, whenever a distributor makes use of a loss leader or premium, the manufacturer of that article be permitted to withhold supplies from that distributor to prevent him from continuing to sell his product on the loss leader or premium basis.

"To make this possible under the present anti-price maintenance legislation it might be necessary for the manu-

facturer in question who has decided to withhold his supplies from one or more distributors to file with the Restrictive Trade Practices Commission a statement of such intent on his part and the reason for so doing.

"Over the period of a year or two the Commission would become thoroughly familiar with the type of loss leaders being used, the damage being done, and the reasons why the various manufacturers find it necessary to withhold supplies from such distributors.

"If it then becomes apparent that the legislation we have today will not protect the interests of the manufacturers an amendment to the present legislation could then be considered.

"Submitted on behalf of the Canadian Whole-
"sale Hardware Association."

This document is signed, Mr. Chairman, so I will leave this with you.

THE CHAIRMAN: Do you wish to make any comments, Mr. Crowder?

MR. CROWDER: No further comments.

THE CHAIRMAN: At this time?

MR. CROWDER: No.

THE CHAIRMAN: Do other members of your

delegation?

MR. CROWDER: Mr. Taylor, President of the organization, not at this point he says.

THE CHAIRMAN: Any other member of the delegation wish to make any comments or observations?

MR. BIRD: I would just like to make the comment about our interpretation of loss-leadering, and that is we consider loss-leadering is an item that is being sold at cost or less than cost or at a mark-up that does not cover a dealer's operating expenses, in the particular industry where that item is most commonly sold.

Now, we think that the continuation of loss-leadering will eventually force the retail hardware dealer out of business and it will eliminate competition, which we think will result in the consumer eventually paying higher prices.

MR. FAVREAU: Did you say that a loss-leader is something that is sold either at cost or less than cost or at a price which would not allow for covering expenses, did you say in the particular trade in which it is sold or in the particular store in which it is sold?

MR. BIRD: In the particular industry where that particular item is commonly sold.

THE CHAIRMAN: I think what Mr. Favreau was wanting to ask was whether, when you spoke of the cost of doing business, whether you meant the average cost of doing business in that industry or the cost of doing business for that particular

merchant?

MR. BIRD: I am thinking of the average cost of doing business in that particular industry. For instance, if it turned out that according to the Dominion Bureau of Statistics that the average retailer's cost of doing business (I am speaking of hardware retailers) was 20% and an item cost him a dollar and he sold it for $1.15, I would say that would be loss-leadering. On the other hand, if a grocery store sold a hardware item, when their cost of doing business is possibly only 10%, and they sold that item for $1.15, also, that would still be loss-leadering.

MR. FAVREAU: That is why you add "that is commonly sold". It is generally --

MR. WHITELEY: By whom?

MR. BIRD: It would be a loss-leader by the grocery store and also by the hardware store, because in both cases they were selling the item below the average operating cost of an item that is commonly sold.

Say, it is a hammer and the hammer costs the dealer $1.00 and his operating expense is 20%.

MR. WHITELEY: This is the retailer dealer, retail hardware dealer?

MR. BIRD: Yes, the operating expenses are 20% and he sells it for $1.15. Well, in our mind that is loss-leadering.

MR. WHITELEY: What about the grocer?

MR. BIRD: The same so far as the grocer is

concerned. I think it is generally acknowledged that the operating expenses of a grocer are lower than a hardware merchant. We will say, for example, in the grocery business their average operating expenses are 10%. We think that if he sold a hammer, that same hammer, at $1.15, even though his operating expense is 10%, it would be loss-leadering.

MR. WHITELEY: What should be do?

MR. BIRD: What should he do? He should sell it at the minimum amount, would be $1.20, because that is the average operating expense, we will say, of a hardware dealer, and I am assuming 20% is, I am just citing that as an example.

MR. WHITELEY: What should happen to the difference above his normal mark-up?

MR. BIRD: Well, that would be his profit. He could use it as profit or anything else.

MR. WHITELEY: Could he give it away?

MR. BIRD: He could give it away in groceries if he liked, yes, in a further discount on his groceries.

MR. WHITELEY: Say, he offered a hammer and a can of soup as a combination offer?

MR. BIRD: I don't know. I have never thought of the combination offer. I know that is practiced too.

THE CHAIRMAN: But if you insist that the grocer must charge the same price as the hardware merchant would be required to charge, and by so doing he makes a bigger profit than he would on

his grocery lines, wouldn't he be inclined to extend his hardware operations to bring more profit to him?

MR. BIRD: Well, that could be, but after all that would be fair trade. If he wanted to extend it I don't think there would be any objection to that from the hardware industry, as long as he took a normal margin of profit for selling that class of goods.

MR. WHITELEY: Does your firm sponsor seasonal offers through your customers?

MR. BIRD: What would you term seasonal offers?

MR. WHITELEY: I notice in my home every now and then I get a circular of some retail hardware dealer, with his name on it, offering some special seasonal items.

MR. BIRD: Yes, we publish one for the dealers.

MR. WHITELEY: I notice some of them are marked with a special designation indicating them as bargains.

MR. BIRD: That is right.

MR. WHITELEY: How do those bargains arise?

MR. BIRD: Well, I am speaking about a catalogue that we put out for the local hardware, for the hardware trade in Ontario. We develop those specials in the organization. Usually we try to buy a quantity of merchandise at a special price and we take a minimum mark-up ourselves.

MR. WHITELEY: Do you take your average mark-up on those?

MR. BIRD: Pretty well, yes.

MR. WHITELEY: What do you mean by "minimum" then?

MR. BIRD: Well, we take a minimum mark-up to cover our operating costs.

MR. WHITELEY: Well, is that your average?

MR. BIRD: It could be, yes. I have never just checked on it or thought of it from that angle.

MR. WHITELEY: Well, why did you think of it as your minimum?

MR. BIRD: Well, we usually shade it, we cut it back. The specials we handle on a lower mark-up.

MR. WHITELEY: You do reduce it?

MR. BIRD: Yes, we do.

MR. WHITELEY: How does that fit into your plan you are suggesting this morning?

MR. BIRD: We would cover our operating expense so that it would fit in all right.

MR. WHITELEY: But it would not be the average?

MR. FAVREAU: It would be the average operating expense?

MR. BIRD: It would be the average operating expense, yes.

MR. WHITELEY: Without any profit?

MR. BIRD: Without any profit.

MR. WHITELEY: How do you distinguish that from the grocer who sells not only covering his expense

but he also has a profit.

MR. BIRD: I don't think that the grocery stores or chain grocers should be permitted to take hardware items and sell them to the detriment of the hardware dealers.

MR. WHITELEY: What about the public?

MR. BIRD: That does not seem fair trade.

MR. WHITELEY: What about the public?

MR. BIRD: Well, the public have not been hurt so far. Canada has been flourishing, and all I can see that it does by cutting down profit is lower our standard of living.

MR. WHITELEY: Don't you think the public is benefited by the fact that competition is in effect?

MR. BIRD: No, because he does not always get the type of service that he deserves. When items are sold for less than their normal mark-up, he does not get the variety of merchandise to choose from. That is one way that the chain grocery store could sell on a lower mark-up.

MR. WHITELEY: Now, these bargain items that you indicate in your circular, does the retail hardware dealer have a different mark-up on those than on other items?

MR. BIRD: In most cases, yes.

MR. WHITELEY: He takes a lower mark-up as well.

MR. BIRD: He takes a lower mark-up, enough to cover his operating expenses.

MR. WHITELEY: What would be the effect of

that if all those items were resale price maintained?

MR. BIRD: If all the items in the catalogue or just on specials you are speaking of?

MR. WHITELEY: On specials, yes.

MR. BIRD: Well we would not take an item that is a suggested retail list and slash it.

MR. WHITELEY: Well, if all items are resale price maintained, you would have no bargains then?

MR. BIRD: I am not suggesting that all items should go price maintained.

MR. WHITELEY: If you are going to prevent some other line of business from taking lines that you think are going to affect the hardware merchant, would not they have to be price maintained too?

MR. BIRD: Well, my contention is that hardware dealers or anybody else selling hardware, should not sell it below what is considered a normal operating expense, and if they do we figure it is loss-leadering.

MR. WHITELEY: No, but the solution offered in your brief is that these items should be price maintained.

MR. BIRD: No, I think that what was suggested there was --

MR. WHITELEY: That is what the brief suggests, the solution of this problem is to have goods price maintained.

MR. BIRD: I see, yes.

MR. CROWDER: The brief suggests the manufacturer if he wants to. We did not say everything but if the manufacturer wants to.

MR. FAVREAU: But it would not solve the problem inasmuch as things which are not price maintained, like these scissors which you quote there could very well not be price maintained: Even if you had resale price maintenance, it would not prevent this from being done in the grocery store.

MR. CROWDER: That is correct.

MR. FAVREAU: That may be your solution, the most proper solution, but the second one which you propose.

MR. BIRD: That is right.

MR. CROWDER: During the time, Mr. Chairman, prior to this legislation, it was legal for the manufacturer to establish and maintain his resale prices, but a great number of things the manufacturer would just leave it on the open market to come and go as it pleased. That will still continue undoubtedly.

The drug trade was probably the one where they had the greatest amount of price protection or price maintenance, but they had a great number of things that were sold on the open market.

We do not anticipate that if the law were changed and the manufacturer had the right to do that, that all hardware items would be price

maintained. They would not. I would think that less than 50% at the very maximum would ever be price maintained, maybe less than that, maybe 25%. electrical fixtures and some silverware are a few items -- the bulk of the hardware trades would never be price maintained.

MR. WHITELEY: How does your brief then deal with that aspect?

MR. CROWDER: Leave it to the manufacturer to do as he likes.

MR. WHITELEY: To deal with the situation you are complaining about?

MR. CROWDER: Well, this is only one side. We did not try to bring in a panacea for every ill. We say this one thing, the things that are hurting us particularly, particularly electrical appliances: If the manufacturer had the right to maintain his prices on electrical appliances that would remove part of it, it would help.

MR. WHITELEY: Does the manufacturer ever think of making that account directly to the distributor?

MR. CROWDER: Well, in the main -- in that case where Lever Bros. were using the pressure cookers for a premium, they bought it through a wholesale distributor.

MR. WHITELEY: That is not an example that is referred to in this brief.

MR. CROWDER: I think the pressure cooker people intend to be here so I did not want to state

anything for them.

THE CHAIRMAN: The major part of your brief is dealing with the difficulties of the business, seems to be related to this matter of premiums.

MR. CROWDER: And loss-leaders.

THE CHAIRMAN: And the illustrations given are pretty completely of the premium type. I mean, where you say something is supplied for a penny, I would call that, to all intents and purposes, a premium rather than a loss-leader.

MR. CROWDER: I understand that the Retail Association have asked for a postponement of their hearing on account of the sickness of their secretary, but they will have a considerable brief on those things and I did not want to --

THE CHAIRMAN: What I was coming to is this, that your brief refers to difficulties in the hardware business --

MR. CROWDER: Yes?

THE CHAIRMAN: -- falling within the category of premiums.

Now, the suggestion of a remedy which you have made seems to us not to preclude a pretty wide use of premiums still in the matter of items that are not price maintained, if the premium difficulty which you now have would not be solved at all by the manufacturers' election to maintain the prices on some articles whereas with respect to others the price is not maintained and others can compete for as a premium.

MR. CROWDER: The price maintenance would give us a definite improvement. In the case for example of a dealer on Yonge Street who offered to sell a refrigerator, an unbranded, unknown refrigerator, and give away a Mix-master for nothing, now, this dealer sold electrical appliances (Mix-master is one of them) and the Sunbeam Corporation could not go into that man and say, "I won't give you any more of my Mix-masters because you have sold them for nothing. You cut the price down from, whatever it is, $75.00, to nothing". I could not prevent him from doing that under the price legislation, but if the right for the manufacturer to maintain and establish his resale prices were restored to the manufacturer, a very considerable number of these things that are badgering us now would be remedied, they could not do that.

THE CHAIRMAN: I can quite see that you might have a remedy with regard to those items which are price maintained, and there might be quite a number of them; but there would still be a very large number of items which could be used for those purposes which would not be price maintained.

MR. CROWDER: That is true.

THE CHAIRMAN: And would your position be very much better?

MR. CROWDER: It would be better, it would not be ideal.

MR. CHATER: They would lose their appeal to a great extent if it was not price maintained.

An awful lot of these items that are put on premium deals are things that people well know the price, what the price is. It loses appeal immensely if it is not price maintained.

THE CHAIRMAN: I was thinking of the items which you have mentioned in your brief. It seemed to me most of those were not price maintained, kitchen scissors, carving sets, chrome plated table knives, they are usually not price maintained, at least there are quite a lot of manufacturers who do not price maintain those things.

MR. CHATER: Those are definitely loss-leaders, premiums.

THE CHAIRMAN: Those are offered as a premium.

MR. CROWDER: They are a loss-leader at the same time, to get a pair of scissors for a penny, nobody could hope to sell a pair of scissors for a penny. That is a loss-leader to bring people into the store.

THE CHAIRMAN: Was that a straight sale or was it not supplied for a penny if you bought $5.00 worth of merchandise.

MR. CROWDER: That is correct.

THE CHAIRMAN: You might say they were loss-leadering on the groceries but they were not on the scissors which they were giving away.

MR. CROWDER: That is a fine distinction.

THE CHAIRMAN: It is the difference between a loss-leader item and a premium, isn't it, which

is not the same thing. They are for a limited period and they have much the same effect on the buying public, but what puzzles us is that the remedy you suggest, if it were put into operation, while it would remove certain items which are price maintained from the category of premiums, it would still leave a very large number of items which are now being used for the purpose, still in the position where they could be used as premiums, and we wonder how much better off you would be.

MR. CROWDER: Well, we would be a little better off. We will come back to see you next year and ask for the rest.

MR. WHITELEY: Even if the price maintenance would necessarily remove those as a premium, if the particular retailer were able to secure supplies of those articles --

MR. CROWDER: He would not be able to do that.

MR. TAYLOR: That would be a temporary business.

MR. WHITELEY: I know, but most of the premium deals are temporary, they only run for a limited period.

MR. TAYLOR: In limited quantity. I would not say for a limited period. They are advertised for a premium in a limited quantity.

MR. WHITELEY: But if the retailer got hold of a limited quantity he could make the

premium offer and then he could switch to some other offer.

MR. TAYLOR: That is true, but he would only do it the one time.

MR. WHITELEY: With the one item.

MR. TAYLOR: That is right. Under present circumstances the retail dealer who wants to have a loss-leader can have it continuously.

MR. WHITELEY: With the same items?

MR. TAYLOR: With the same item.

MR. WHITELEY: I mean, it would merely be a switch of items. He could still offer a premium.

MR. CROWDER: He keeps it up. One of the stores in Toronto is using this C.G.E. floor polisher consistently for a drawing card to bring people into the store. He just keeps on advertising it.

MR. WHITELEY: He may now, but if your plan went into effect, what is to prevent him from switching from one thing to another?

MR. CROWDER: He could not use any price maintained article, he could not get those things.

THE CHAIRMAN: Many of these items are bought by the retailer not from the manufacturer but from some distributor, wholesaler or jobber. Do you think it would always be easy for the manufacturer to ascertain the source of supply?

MR. CROWDER: It wouldn't be easy but he could.

MR. TAYLOR: If he had the privilege of sug-

gesting that supplies be withheld it would not be too difficult for him to find out what wholesaler had given supplies to the dealer in the past.

THE CHAIRMAN: We had one instance of complaint of that kind in another type of case last year in which all the jobbers in the area stated they had not been selling to the man, but he had certainly been getting the goods.

MR. TAYLOR: I think that possibly may be the case because of existing legislation. I suggest that if the legislation were different, that the manufacturer had the authority to do something about it, then it would not be too long until the manufacturer found out who was supplying that particular store. Many of these lines have serial numbers on them and the manufacturer can trace the serial number to see which distributor received that shipment. It is not too difficult to find out.

THE CHAIRMAN: Where they had means of following the items from the manufacturer through the jobber to the retailer, they can identify it, but unless there is some identification of that kind I should think it would be quite difficult.

MR. TAYLOR: Well, I think the manufacturers and wholesalers and the retailers would be able to live with that problem if they had the power to do something about it.

MR. CHATER: I wonder, Mr. Crowder, if you would introduce these two gentlemen who have come in.

MR. CROWDER: I was going to say before that, I know one company (I think they are going to be called) which sold an article which would sell for $1.00, which is a very small line, they went to the trouble of identifying their label on the reverse side with a serial number on it to check that kind of thing. It is a lot of trouble and expense, but if they can do it for a $1.00 sale they can do it for these bigger units. As our President says, we will be delighted to live with that problem as compared with the problems we have today.

I would like to introduce Mr. Stewart from London and Mr. Frank Erskine from Wood-Alexander of Hamilton.

THE CHAIRMAN: That completes your whole delegation. Did you have anything further to say?

MR. CHATER: Talking about price maintenance I just have a couple of items here that occur to me. We had a line of power lawn-mowers. We probably distribute, I guess, I think we are almost the sole distributor in Ontario. Under the present legislation we are not allowed, if we sell a man one lawn-mower, why, then, we cannot refuse to sell him a second lawn-mower. We have a case in point in a town five or six miles from here where we have been in the habit of selling one man this power lawn-mower who goes to a lot of trouble to service it. He takes it out of the store, takes it to the customer and shows him how to operate it.

and he has been doing very good business.

We have his competitor who is no hardware man anyways that handled another line of lawn-mower but unfortunately they went out of business. He 'phoned in and got a couple of these lawn-mowers that the other fellow was selling.

In his particular case one man worked for the Admiral Manufacturing people here who made radios and that line, and he said that he could buy through his own firm and he could get 10 or 15% off.

This fellow eventually took him at his word and gave him 15% off the lawn-mower and then came and got the lawn-mower. He did not take it out of the store. He said, "There is your lawn-mower, take it with you".

He comes back after two days and says, "This thing is not working". He says, "I have nothing to do with it. Take it into White's". He comes into our place and there was not very much wrong with it but then he says that he did not want this lawn-mower, that he wanted a larger one. So we call up the customer and say, "This man wants a 21", not just 18". "Give me credit for the 18" and give him a 21" ".

I am quite sure that man was not giving service on that lawn-mower. He was just making a quick dollar, and we should have some way of protecting the man who had to give service on that lawn-mower.

THE CHAIRMAN: The law does not prevent you refusing to sell except for certain reasons.

MR. CHATER: Well, he could very well establish a case that we refused to sell more lawn-mowers because he got the 15% off that lawn-mower. We wouldn't have very much of a leg to stand on.

THE CHAIRMAN: If you could establish what your difficulty is, all right, but if your real reason --

MR. CHATER: Our real reason was we did not like him giving the price on the lawn-mower in that way. We think it was poor merchandising.

THE CHAIRMAN: If that was the reason I can see it would not be right, but for any other reason you are within the law.

MR. CHATER: The other man was giving service and making his profit - he wasn't making very much on it, he wasn't making 25%.

Then one case particularly in Brantford, we have an account, Elliott and Wedlake, they make a business of service charges, they do the same as the other man did. We have another customer who buys a lot of hardware and he sold to the company next door who wanted a power lawn-mower, and the fellow says, "I can go down to so-and-so and they want so much for a mower". "I can get 10% off. I will get you one".

We had difficulty with the lawn-mower. He couldn't adjust it and didn't know anything about it, and he admitted to us that he cut the price

so that he could say I have got to sell him another lawn-mower. You can't refuse to sell him because he cut the price. We have that on a good many occasions.

The Dominion Stores were selling English lawn-mowers I found as a premium. Where they got them I don't know. They did not come from us. We had a case the other day where a woman had got an English lawn-mower from the Dominion Stores and she said it didn't work, so eventually she got in touch with the agent and he said we did the service on them, so come into our place. I think one of the roller brackets was broken and we told her we would give her a roller bracket for 25¢. She said, "I can't put it on". "What about your husband?" She said, "He is a lawyer, he can't do anything". We charged her $1.50. They had no business to do that. Service on these things is quite a problem.

MR. WHITELEY: This first instance you mention appears to me to be somewhat lax on your part. If you consider that the article you are distributing requires a certain amount of servicing by the dealer that you would not question those articles that the dealer should provide that service.

MR. CHATER: Well, we have several kinds of difficulty. We had 3,000 accounts and it is pretty hard, we can go to our fellows on the telephone and say, "Don't sell this fellow a lawn-

mower" but they put the pressure on you, they say, "I will get the lawn-mower and I will get hardware somewhere else". He may go down to our friend Ed Bird. We have tried to do something like that.

THE CHAIRMAN: You might still have that pressure if you had resale price maintenance.

MR. CHATER: We would make them keep the price anyway.

THE CHAIRMAN: But if he said "I will go somewhere else" --

MR. CHATER: He could not go somewhere else and get this particular mower.

THE CHAIRMAN: But he can get the rest of his hardware somewhere else.

MR. CHATER: He can do that.

THE CHAIRMAN: What I am thinking is the remedies are nothing like 100%, what you are suggesting. There would be a lot of loopholes and angles to it that are not overcome by the proposal.

MR. CHATER: If the manufacturer or distributor was allowed to assess what his stuff should be sold at, I don't think we would get together -- the contention that we would get together and fix prices, I don't think that is necessary.

These Flexible Shaft people who make Mix-masters, they want Mix-masters and they won't take anything else. I think he is entitled to his price. He has spend a lot of money in developing it and I think it ill behooves the

Government to say this man should not be able to say what he gets for his product. They require a certain amount of servicing.

We have other people making kindred products, light products of that kind, who have spent the money and create the market. I think he should have some say in how he is going to sell his merchandise. It hink it is a big mistake which we all hope this Board will repair. I think we should be able to say who we should sell them to and who we should not.

THE CHAIRMAN: That reasoning would apply, I presume to any manufacturer who spent any money on advertising or on demonstrating.

MR. CHATER: I think so, I really think so.

THE CHAIRMAN: Not merely the nationally advertised brands which you refer to in this brief.

MR. CHATER: Somebody who establishes the price and gets up the demand. For example, G.E. kettles or pressure cookers; there have been half a dozen people, more than that, make pressure cookers, but the Pressure Cooker people made the demand for the pressure cooker and they should be allowed to set the price for say what it should be sold at.

THE CHAIRMAN: What I am getting at, do you mean that argument only applies in the case of an article which has been very extensively

advertised on a national scale or something of that sort?

MR. CHATER: I wouldn't say to put an ad in the local paper, you could say that was advertising, but the advertising with a ticket on it and people know what it is worth and if they can go into a department store or chain grocery store and buy it at wholesale price, why, it should not be allowed.

MR. TAYLOR: I would think that would apply to any manufacturer of any item, that the choice would be his regardless of the amount of advertising. In other words, there are many forms of advertising. Merely having a sales promotional campaign in a newspaper is one form. Intensive dealer selling work, while the public generally is not familiar with it, is another form.

I think the option should be the manufacturer's as to whether or not he feels that he can achieve the best merchandising through a price maintained article or one that is thrown on the market helter-skelter.

THE CHAIRMAN: You would, I suppose, take the position that the distinction between a manufacturer who advertised on a national scale and one who pursues one of these other forms of promotion in a more restricted area, the distinction is merely one of degree and that there should be no difference in the position of the manufacturer with respect to the right of maintaining

prices? Is that what you mean?

MR. TAYLOR: I would go further than that. I would suggest that a manufacturer might not necessarily have to have any advertising programme. I don't suggest that advertising is the basis on which the manufacturer might have the right to choose to or not to choose to sell merchandise. I feel that any manufacturer of any item should have the freedom to determine the method of merchandising the article that he manufactures.

THE CHAIRMAN: That is, you leave it entirely in the hands of the manufacturer of any article irrespective of whether or not he operates his business -- I mean, whether on a national scale --

MR. TAYLOR: That is right. I am suggesting that competitive factors are sufficient in today's market to prevent any opportunities of monopolistic practices.

THE CHAIRMAN: I am afraid we interrupted the comments that were being made by a member of your delegation.

MR. CHATER: I could talk all morning, I guess, if I was allowed to. I have a list here I just happened to take off our credit manager's desk of people whom we sold recently. I asked him how many appliance dealers have gone out of business recently. He said, "Well, that is a pretty broad question because we collect pretty close and there would be a lot of them go out of business probably made an assignment after them

which wequit selling.... He said, "It is quite noticeable, we used to have five appliance salesmen. Now we have three,"in fact I think only two full-time, principally because this thing is getting into big hands'.

We used to sell refrigerators, we used to sell about a carload in a week, in fact one week we sold ten carloads. Now we are out of the refrigerator business primarily because there is no profit in it and it has got down to Toronto where there are about six people, maybe less than that, who are selling the bulk of the refrigerators in Toronto.

Sooner or later -- in fact I understand, now, there may be Frigidaire people here today -- there are probably only two of them handling Frigidaire, and they turn around to Frigidaire and they want 10% off or they will put in McClary or some other line although small dealers carried them last year and gave service on them.

I have one or my son did. He bought it from one of our dealers, we got a cut-price on it, 25 off which is good provided they got service on it. I don't think the thing has ever worked properly, but they will get around to it, but we did not get service of any kind.

I am only one, but it must be pretty prevalent among other people who had the same thing. I think we were a lot better off when we had more people that would look after the customer.

Certainly our appliance business has gone to pot. I don't think it is a good, healthy thing for the country.

I have the list here which I took off the credit manager's desk with fifteen marked "go slow. Get our money". I don't think I have anything else to say.

MR. ROSS: The only thing I would like to mention is this. We have about 30 or 40 hardware dealers who used to carry the odd Mix-master, two or three electric kettles, two or three floor polishers, and I don't think one of them today will buy one. They say, "No, we are out of stock permanently". This is because they can be bought -- in one store just two or three days back on Bloor Street -- at less money than we wholesale, practically our cost, that is the reason.

Something should be done to correct a situation like that. It did not happen before this new legislation came in.

THE CHAIRMAN: Have you any information as to the price these big dealers pay?

MR. ROSS: I haven't in the world. I could surmise but I daren't say it because I'm not sure.

THE CHAIRMAN: You don't know what price they pay for it, whether they actually sell for less than they pay?

MR. CHATER: We sold them on a couple of occasions and proved much to our surprise that they

were selling at exactly what they paid us, nothing in it at all. Next time they asked us for it we say, "we haven't got any", and they go along to somebody else and get them. They sell them at exactly what they pay, they are loss-leaders.

This George's Appliances, you get a full-page ad and I often wonder whether there is not something to it: You pick up the editorial of the Star and they seem to think this price maintenance thing is no good at all, that everybody is getting the benefit from it now. I often wonder whether the advertising they get from some of the big dealers hasn't something to do with it, with drawing up their editorials. It is certainly very suspicious.

THE CHAIRMAN: You mean it does help the newspapers anyway?

MR. CHATER: Yes, it helps the newspaper.

MR. RICHARD: I just want to make a comment on a remark that was made that a dealer could pick, if he was restricted from one particular product he could go to other products ad infinitum.

I think that largely speaking the only products that most dealers are interested in in loss-leadering are nationally advertised, or shall we say, consumer accepted products. We have mentioned General Electric floor polishers. There aren't too many alternatives. If it was restricted from General Electric floor polishers he has only two or three other things which are leading

consumer items. If you read the newspapers you will see the names that are bandied around, Sunbeam, General Electric, Westinghouse, not very many more in the small appliance field.

They are names of companies who have spent a vast amount of money and effort to get consumer acceptance of their products. Naturally if I am a dealer and I want to drive people into my store, those are the products I am going to choose. I am not going to choose something made by an obscure manufacturer of which the public does not even know the value. That is not done, you can prove it from any of the advertisements.

I was looking at the electrical stores' advertisements last night, General Electric kettles, $7.95 retail. That is less than we sell it for to the average dealer by a few cents. Heaven knows we are not making a huge profit. Similarly with General Electric floor polishers, $33.95. I meant to make a note of our wholesale price before I came down. It is around that, is it not?

MR. ROSS: We are not giving secrets away to you fellows.

MR. RICHARD: $34.50, I believe, is the normal price to a dealer. Let us assume that the man made a little deal, if he could, but he certainly is not making any legitimate profit.

I know a case in point but I won't mention names, where a certain large appliance chain in Toronto bought 800 of a brand of automatic toasters

and they sold them at the exact price they paid for them. I ascertained that from a friend of mine in the company that sold them just for my own personal information. In effect they were selling for less than they paid for them.

Now, I cannot see how that is a constructive situation to the hopes of other dealers who are trying to make a legitimate profit on that exact item.

Of course the trade name was advertised. Otherwise it had lost its effect as a bait to get the public in the store.

THE CHAIRMAN: I think it is quite true that very often these cut-price items are selected because they are well known, but it is often because they are widely advertised and the market has been pretty well established for them, but sometimes they are not patented or trade marked or nationally advertised articles.

MR. RICHARD: No, but generally speaking they are.

THE CHAIRMAN: I seem to recall sugar, sometimes butter, tea, coffee, being offered for that purpose, which could hardly be called a special article that has been built up by a particular manufacturer.

MR. RICHARD: But you must admit that there is a situation today where companies like the one I mentioned who have spent a terrific amount of time and effort to promote a product, which

is supporting a good many families of their own employees and employees of dealers, you must admit that those products are being dragged down today to the point where it is doubtful whether a lot of dealer will continue to handle them. I may be mistaken in trying to put one of them in one of our consumer bulletins. We had a good many of our customers, our better customers, who refused to buy that consumer catalogue merely because this particular named product was included. They said "we cannot sell them at the price you put in there, so we won't buy your bulletin", and we only have one or two of those appliances on our shelves. We don't intend to do much more about it until the situation clears up.

I don't think that is a fair position for the manufacturer to be in who has made such an expenditure of time and effort, engineering ability and all that to get a product on the market. Do you?

THE CHAIRMAN: I am not making any comments at this stage. We are here just to find out the facts.

MR. RICHARD: I appreciate that, but honestly I am sorry for some of these manufacturers who are in the position that they are today.

MR. CROWDER: Mr. Stewart, any comments?

MR. STEWART: I think these gentlemen have covered our views very adequately. We believe strongly that the manufacturer should have the right

if he wishes to follow the distribution of his products through to the consumer by maintaining the price, and the distribution of it. We feel that if the manufacturer had that right, it would protect his interests.

The way the situation is now it is working very strongly against their interests. They are losing, eventually will lose that market which has cost them much money and effort to obtain, and we feel, as Mr. Taylor has expressed it, that they should have the right to follow the distribution, if they wish, to its ultimate, to the consumer market.

THE CHAIRMAN: Any other member of the delegation wish to comment?

MR. ERSKINE: Gentlemen, I have not any remarks to make except I have listened with interest to the comments of the other gentlemen here, and I concur wholeheartedly with their opinions. That is the general opinion in our industry.

We are large appliance distributors and our business has definitely be seriously affected, adversely affected, by these so-called loss-leaders, price-cutting.

I concur with Mr. Taylor. I think the manufacturer should have the right to establish the end price on his article. Competition will keep it in line. Competition today is very keen. The article must be good and must be priced right or it cannot be sold. That is all

I have to say. It is quite evident that the manufacturers must feel this very keenly. They do not like to see their merchandise booted around the way it is.

THE CHAIRMAN: I suppose if there were an industry in which monopoly conditions existed, your views about the right of the manufacturer to fix prices might be affected, because you have based your arguments that the manufacturer should be free to fix his prices all the way down to the consumer, on the ground that there is very keen competition. If there were a situation of monopoly or something close to monopoly, that argument would not apply, would it?

MR. TAYLOR: Sir, I would suggest that under presentday conditions there are very few opportunities for monoply. When we are thinking in terms of monopolies, we think of a situation where the availability of capital was fairly limited, that costs of getting into a particular industry were prohibitive. I think today, even with the availability of capital as it is, that any industry or any manufacturer who has achieved what we might call a monopolistic position and is taking advantage of it, we would very shortly find that there would be a sufficient flow of capital to that industry by other people who saw the opportunities that his monopolistic position did not last too long.

I would suggest that we have a greater

monopolistic problem as a result of the present legislation, for are we not in effect driving business at the retail level from the hands of many to the very few under the present legislation?

THE CHAIRMAN: Mr. Wickwire, do you wish to ask any question?

MR. WICKWIRE: I have a few, Mr. Chairman. I have made a note or two of some remarks of some of the gentlemen present, and I also had a few questions on the brief itself. Perhaps for the sake or regularity I will deal with the brief first.

Mr. Crowder, you mentioned at the top of page 2 that the use of hardware items used for loss-leaders and premiums by a considerable number of retailers has had a most disturbing effect upon your customers and your sources of supply. Now, first of all, the disturbing effect upon the customers. I take it that is the effect, as explained by some of the delegation present, that some dealers are saying "We do not want to sell under manufacturers' brands because somebody else will sell it at a lower price".

MR. CROWDER: Well, there are a number of effects upon the customers.

MR. WICKWIRE: Would you just enunciate what they are so that we will know?

MR. CROWDER: The one point is that the manufacturer would advertise an article worth, let

us say, $39.95 and next week they will see this in a store at $29.95. Those are imaginary figures I am using there. So the consumer says "Somebody is lying about this. This is not worth the advertised price of $39.95. The manufacturer has a fantastic profit in here some place. It is only worth $29.95 because here it is for sale at $29.95". So it disturbs the market value of a commodity in the eyes of the consumer.

MR. WICKWIRE: Well, I am only suggesting this but perhaps the market value is an artistic one in the first place.

MR. CROWDER: I don't get you.

MR. WICKWIRE: Or at least an artificial one in the first place.

MR. CROWDER: The price established by the manufacturer in the first place would be hardly likely --

MR. WICKWIRE: Use the illustration that you have given us. You say a customer sees an ad in the paper that this article is worth $39.95 and the next week he sees the same article advertised at $29.95.

MR. CROWDER: Well, we get back to the exact article quoted a while ago about these kettles. Those kettles have been sold at this figure which was a few cents less than the price at which the wholesaler would normally sell the retailer. Certainly that was not a fair value for that article.

MR. WICKWIRE: But in what quantities were those kettles purchased by the dealer who was selling them, do you know?

MR. CROWDER: I don't know, but I know of one case where a retailer --

MR. WICKWIRE: Or do you know what margin the particular dealer concerned is selling them for, what margin he is getting on them?

MR. CROWDER: Well, I think they could answer that here.

MR. CHATER: He might get 5% if he makes a deal, he may have got 5% discount.

MR. WICKWIRE: In what way does that have a disturbing affect on the customer, that is what I want to know?

MR. CROWDER: Because the customer is given a false opinion of the value of the article.

MR. WICKWIRE: Well, he is still buying the article, is he not?

MR. CROWDER: But he has got the impression that if the store has a kettle for $7.95 and the next store has a kettle for $9.50, the $9.50 kettle seller is a robber.

MR. WICKWIRE: But you mentioned a moment ago that he blames the manufacturer?

MR. CROWDER: Well, he thinks the whole set-up is a fictitious lot of fancy prices that give everybody a tremendous profit that they are not entitled to.

MR. WICKWIRE: Then I would suggest -- I

don't say this is so -- but perhaps if that condition has been brought about it is because there has been an artificial spread of that suggested price over the manufacturer's price.

MR. TAYLOR: I think you will find on investigation that any lines that were price maintained prior to the legislation, that the mark-up at all levels was less than a non-price maintained item, the same item of a non-price maintained line.

In other words the margin on a well advertised nationally known line has been generally lower than it is on the same item in the standard line. Therefore I suggest that the mark-up basis was not out of line.

MR. WICKWIRE: I don't know whether you were the gentleman who referred to the kettle that was advertised or not, the G.E. kettle, but what would have been the normal mark-up or what would the mark-up be if the article were price maintained?

MR. CHATER: $14.95, isn't it, retail?

MR. TAYLOR: $12.95.

MR. CHATER: $12.95. That would not give a mark-up of 25% on cost, 25% on selling price.

MR. TAYLOR: Yes.

MR. RICHARD: Just by way of information, this particular dealer I referred to, if he bought them at the price he tried to get them

from us some time ago, would have bought that kettle for about $7.75, and he has advertised it at$7.95. Now, I don't think anyone would say that any kind of an operation would find that an adequate mark-up, except as it is being used, to lure someone in the store to sell him something else. If you go into some of these particular operators who use these tactics, you don't get out with just a $7.95 kettle under your arm. You have a lot else with you at the same time. You have to put your pocketbook really under control.

MR. WICKWIRE: But he had purchased that kettle in some quantity?

MR. RICHARD: He may have bought a couple of hundred or so. It is still 20¢ on a $7.95 purchase or $20.00 on a $775.00 purchase, whichever way you want to look at it. That is not an adequate return on your investment.

MR. WICKWIRE: There has been a lot of talk about averages. Would $200.00 be an average purchase or considered a large purchase?

MR. CHATER: Large purchase.

MR. RICHARD: A large purchase.

MR. WICKWIRE: Well, what would the cost be to the dealer of an average purchase?

MR. TAYLOR: You mean what is the price?

MR. CHATER: Just about 5% it will be if he takes a full package. There is a certain package unit. If he takes a full package unit he gets another 5%.

MR. FAVREAU: What is the full package?

MR. CHATER: 6 I think. No, four kettles, six irons.

THE CHAIRMAN: Supposing he bought 600? Would he get a different deal then?

MR. CHATER: No, there are only two prices.

THE CHAIRMAN: What I wanted to find out was if there is any possibility of a further reduction for one large order?

MR. CHATER: Not at the present time.

THE CHAIRMAN: One large order involves less work to the wholesaler than 25 or 30 smaller orders, I would think.

MR. CHATER: If you have cut prices very much you have got to sell an awful lot more in order to make up what you have lost.

A case in point about losing confidence in the product, I have recently taken out some washing machines. This washing machine normally sells at $119.00 and we pay $99.00 for them. I think I am right in that but I may be a few cents out.

This man was advertising them at $99.00. and this woman paid $119.00 for it and she saw this advertisement for $99.00 afterwards. She immediately calls up the manufacturer and says "What are you going to do about it? I want the difference between $99.00 and $119.00". He called me up and he said, "What would you do?" I said, "You know what I would tell her."

That is destroying confidence in an item

and there may be some difficulty in ever getting the price up to $119.00, just because this fellow advertised some for $99.00.

MR. WICKWIRE: I take it that -- in your brief you state that these practices had a disturbing effect on your customers, your customers being the retailers, and it was because they were calling up you people as wholesalers and saying "We cannot meet the competition. Therefore we don't want such and such an article".

MR. ROSS: That is right. They won't carry it in stock. They will just be out of stock purposely until this thing quietens down, that is the story.

MR. WICKWIRE: What is the effect on your sources of supply, what is the disturbing effect on your sources of supply that you complain about?

MR. CHATER: They have to cut back, there is no question about that, cut back in production.

MR. WICKWIRE: The manufacturers?

MR. CHATER: Yes.

MR. WICKWIRE: Do you know any who have?

MR. CROWDER: Didn't Mr. McKinnon say that -- I think he told that to Mr. MacDonald. Mr. McKinnon went up to see Mr. MacDonald about this in Ottawa and I am pretty sure that it just about put him out of business, I don't know.

MR. CHATER: They had a strike and they were out for six months and he said he didn't

care whether they ever came back.

THE CHAIRMAN: What is the company?

MR. CROWDER: National Pressure Cooker he is in. He will tell you what happened. It just about ruined him.

MR. WICKWIRE: His production fell off, is that it?

MR. CROWDER: Yes.

MR. WICKWIRE: Were his cookers not sold?

MR. CROWDER: I can give you an example of what happened in Grimsby.

MR. WICKWIRE: I am talking about the one you mentioned.

MR. CROWDER: Mr. McKinnon?

MR. WICKWIRE: Yes.

MR. CROWDER: The manager of the National Pressure Cooker Company of Wallaceburg. Lever Bros. offered (I may be a cent or two out in my prices) the pressure cooker to anybody who would send in some coupon from some detergent, for $12.95. The retailers could not sell them at this price because that was their cost price or less, so they just discontinued and they discontinued all over the country.

MR. WICKWIRE: How long did Lever Bros. do this, do you know?

MR. CROWDER: Oh, for several weeks. They advertised it in the Star Weekly which reaches throughout the country, so that they had to keep these things available for their customers.

MR. WICKWIRE: But the National Pressure Cooker Company must have been paid for these cookers?

MR. CROWDER: Surely, but it ruined their business with their customers. Their customers would not put them out on their shelves.

MR. WICKWIRE: Just let me follow this so that you and I think alike on the subject. Lever Bros., you say, put out as a premium pressure cookers?

MR. CROWDER: That is right.

MR. WICKWIRE: They must have purchased them somehow?

MR. CROWDER: That is right.

MR. WICKWIRE: Through the manufacturers?

MR. CROWDER: Through a distributor in Toronto, that is correct.

MR. WICKWIRE: Who must have paid the manufacturers for them?

MR. CROWDER: That is correct.

MR. WICKWIRE: Now, these pressure cookers got into the hands of the public?

MR. CROWDER: Correct.

MR. WICKWIRE: The consumer?

MR. CROWDER: Yes.

MR. WICKWIRE: In great quantity, I take it?

MR. CROWDER: I don't know what the quantity was, I know what the effect was.

MR. WICKWIRE: Now, Lever Bros. only had

this premium or give-away, whatever it is, advertised for a period of a few weeks.

MR. CROWDER: For some weeks. I don't know how long. If anybody sent an ad back they had to supply the cooker.

MR. WICKWIRE: And in the meantime you say the retailers discontinued buying or selling them?

MR. CROWDER: They figured they could not take a chance on having it in their store and having an argument with their customer.

Mr. Johnson, a retailer in Grimsby had a woman come into him. He had sold her the pressure cooker for the regular price. I think it was $17.50. She bought that on Saturday and the paper on Sunday -- she said "I should have waited until today to buy that pressure cooker from you because I can get it for $12.95 and you charged me $17.50".

MR. WICKWIRE: You are ahead of me. I am still with the National Pressure Cooker Company. Has that company ceased business, did you say?

MR. CROWDER: No, they are still in business, but I know Mr. McKinnon says they were nearly put out of business while this thing was going into effect. So many retailers refused to sell their goods and would not buy any more.

MR. WICKWIRE: Are the retailers selling the pressure cooker now?

MR. CHATER: No. To some extent, but if somebody wants to buy something for a shower, for

example, that is the last thing they will suggest. They figure it stinks, they will keep them for a long while, that is their attitude. Anything that has been used for such things they won't suggest it, and the pressure cooker people have definitely suffered by it because the merchants won't display it, they will suggest something else.

MR. WICKWIRE: But what about the volume of trade of the National Pressure Cooker Company?

MR. CHATER: It will be way down. We know how much cooker business we enjoyed in the pressure cooker business but we don't any more.

MR. TAYLOR: I think, sir, the point we are making is that action as in the case of that particular instance destroyed the merchandising pattern of that manufacturer to such an extent that he found himself, instead of depending on a great many outlets for his particular product, he found himself depending on a relatively few outlets who were then in a position to exert great pressure on him for further reduction in prices so far as they were concerned.

MR. WICKWIRE: Do you know whether or not great pressure was exerted?

MR. TAYLOR: I have no means of telling. Probably Mr. McKinnon can.

MR. WICKWIRE: Now, further down on page 2, Mr. Crowder, your brief states:

"Regular hardware items carrying

"branded names are used as premiums

"from time to time by manufactur-
"ers of tea, coffee, breakfast
"foods, detergents, and other
"commodities".

Does this practice not also pertain in the United States under Fair Trade law?

MR. CROWDER: Well, it could not continue if the fair trader wants to stop it.

MR. WICKWIRE: Well, that brings up this point, that, can they and do they stop it in the United States?

MR. CROWDER: Yes, they do.

MR. ROSS: Some States haven't got fair trade.

MR. CROWDER: They have all got fair trade but two or three States.

THE CHAIRMAN: Three.

MR. WICKWIRE: I understand so, and what has happened in those States?

MR. FAVREAU: You mean those where there is fair trade?

MR. WICKWIRE: Yes.

MR. TAYLOR: I don't think you can judge from the results in the United States. It is because of the cumbersome mechanism to achieve those results that the results have not been satisfactory.

My understanding is that if a manufacturer wants to present a case under the Fair Trade Laws, he is not likely to have that case heard

within a period of 24 months, by which time the problem has probably been solved, too late in any case insofar as he is concerned.

MR. WICKWIRE: In other words, they have found great difficulty in policing?

MR. TAYLOR: Not in policing. It is because of the cumbersome method for policing it. I am suggesting there is no fault with the law; I am suggesting the means of enforcing it are at fault. Therefore, we cannot base any of our thinking on the results that have been achieved in the States.

MR. WICKWIRE: But in spite of the delays of law which you have just mentioned, I understand that the manufacture could and does get a temporary injunction.

MR. TAYLOR: That is not my understanding.

MR. WICKWIRE: How do you account for the great growth of discount houses in Fair Trade States in the United States?

MR. TAYLOR: Are we called to account for them? I don't know that that is part of our brief or part of our particular problem at the moment. We are suggesting that the manufacturer have the right to control his merchandise pattern and we make no attempt to say --

MR. WICKWIRE: Perhaps, Mr. Taylor, if you think my question was unfair, I will put it this way to you. Do you know there are a great number of discount houses in the United States?

MR. CHATER: Could I answer that? I think

it is very similar to the sparrows: Sooner or later they will take care of themselves. There are places I know in the Island of New York, why, they were forbidden to sell to discount houses. A lot of manufacturers have taken it up.

We have them here in Toronto, we have discount houses which we frown on. We have the Civil Service come out and think they should have the reduction, we have the Hydro Association. We won't tolerate them, and there is a lot of things organized in the States at the present time that we would not think of.

MR. WICKWIRE: But I understand, Mr. Chater, in the States that is just one of the things under Fair Trade laws that is used to get around the prices.

MR. CHATER: I don't think so, no. I think it will run its course. I think at the present time they are, but I think it will run its course just like the sparrows.

MR. CROWDER: Just on that point, may I say that we deliberately avoided recommending the Fair Trade control. We thought that a preliminary step, if we could get the law to recognize that a manufacturer has a right to do this if he wants to, let him find his way of doing it. He does not need a Fair Trade law to do that. He can do that on his own goodwill and in co-operation with distributors. We don't need a Fair Trade law in Canada. That is our thinking at the present

time.

THE CHAIRMAN: I understand that. I think the difficulty Mr. Wickwire had in mind that in nearly all of the United States, all but three and the District of Columbia, there are fairly strict laws about fair trade. In spite of those laws the growth of the discount houses seems to have been very rapid and extensive if we can believe what we read in American periodical reports.

If that is so under Fair Trade law, what we want to find out is the explanation of it if you can give it to us, because if Fair Trade laws do not prevent the growth of discount houses and the selling of goods at considerably cut prices, then it is doubtful if the partial remedy which you suggest would be any more effective.

Now, what we want to find out, what Mr. Wickwire would like to find out is, whether you can help us to understand why the discount houses have been growing in the past in the United States in spite of the Fair Trade law, because you might draw the conclusion, without complete information at any rate, you might draw the conclusion that Fair Trade laws did not prevent cut prices effectively.

That is the sort of thing we want to get your assistance and understanding on. Mr. Wickwire is not asking questions from the point of view of putting you on the spot. He is seeking to get information that you may have. If you haven't

you cannot answer the questions; if you have, it may assist us to understand what this all means. That is what we are trying to get at.

MR. TAYLOR: I wonder how much of the discount house business, what percentage of this discount house business is in lines that are price maintained, in the States or fair traded?

MR. WICKWIRE: Well, I understand, Mr. Taylor, that a good deal of it is in nationally advertised --

MR. TAYLOR: That are fair traded?

MR. WICKWIRE: Yes. Turning to page 3, Mr. Crowder, and the scissors offered as a premium, how far would your Association go in suggesting legislation to limit merchandising by such methods? For instance, some stores will have an orchestra perhaps or organ music, which must cost it something, because they think their patrons, or customers, would like it. Is that sort of thing to be prohibited?

MR. CROWDER: I think generally speaking we would frown on more regulations by Government to tell a person how to conduct their job or store or factory. Our disposition as far as I have been able to get from the meetings, has been that if we want free enterprise then we should as far as possible let the businessman run his own business the way he feels like it.

Our experience in the past when the manufacturer had the right to conduct his business

in the way he wanted to, we do know that companies like Kodak will choose certain distributors in a town or city and only they could sell Kodak films, and only they could sell Kodak films at a certain price and if they did not respect the Kodak film price they lost the agency. The same thing applied to Waterman's fountain pens and Gillette razors and a great number of things.

MR. WICKWIRE: Cannot these manufacturers still control their outlets by licensing?

MR. CROWDER: They can sell or refuse to sell as they choose, but they cannot refuse to sell or continue to sell a customer who cuts the price. That used to be in the Waterman contract. You had to agree to sell all their items at a certain price or you forfeited the contract.

If one wants to put an orchestra or serve sandwiches for nothing in a drug store, we consider it to be none of our business, but if the manufacturer of Frosst's tablets -- they would want to go right in and say "You sell them for 45¢. If you don't you cannot have any more and no more of the rest of our goods either". That should be his privilege and that is about as far as I think we want them to go. Let the manufacturer run his business to suit himself without hindrance from anybody and he will find a way, as he did before, to prevent price-cutting.

MR. WICKWIRE: Your brief suggests that if a dealer wishes to pass on some benefit to a

customer, that it must be on a cash basis.

MR. CROWDER: Where do I say that?

MR. WICKWIRE: "Why would it not be possible to expect a grocer to lower his price of his groceries by 10%?" rather than give a pair of scissors with the $5.00 purchase.

MR. CROWDER: My point there is, why does he have to demoralize another business in which he is not interested? Why does he fly a kite of some one thing? Why doesn't he sell his groceries cheaper?

MR. WICKWIRE: To take your illustration, (I am trying to find out how serious it is) there must be different types and sizes of scissors --

MR. CROWDER: Sure.

MR. WICKWIRE: And quality.

MR. CROWDER: That is right.

MR. WICKWIRE: You say they were good scissors of German make, good quality, and the cost would be about 50¢ a pair laid down, and they would normally sell for $1.00. That would be 100%.

MR. CROWDER: No, no. Lewis Brothers got one of these pairs of scissors and their buyer estimated if they bought a hundred gross lot of scissors they would buy them at this laid down, and then you have the wholesale distribution and retail distribution with the mark-up for both wholesaler and retailer in there.

MR. WICKWIRE: Would this type of scissors

not be sold in many types of outlets?

MR. CROWDER: Yes.

MR. WICKWIRE: In addition to hardware?

MR. CROWDER: Well, primarily you will go for scissors in a hardware. You may go to a department store or chain store.

MR. WICKWIRE: Or drug store.

MR. CROWDER: Not so much drug stores. These are kitchen scissors. Manicure scissors in drug stores.

MR. WICKWIRE: In what way does your scissors illustration harm the retail dealer?

MR. CROWDER: Well, the retail dealer has either these scissors or duplicate scissors in his store. What would you do as a buyer if you wanted to buy a pair of scissors for your wife? Would you prefer to buy a pair of scissors for a penny or pay $1.00?

MR. WICKWIRE: I may not have wanted a pair of scissors anyway, but if I could get a pair with the purchase of $5.00 worth of groceries I think I might have two pairs in the kitchen instead of one.

MR. CROWDER: That is right, that is what they would do. Therefore the fellow who has got the investment -- and in the Island of Montreal there are --

MR. WICKWIRE: My point is I would not have bought that pair of scissors if it had not been offered as a premium.

MR. CROWDER: That could be.

MR. TAYLOR: A lot of other people would. A lot of other people need scissors and if they are going to buy them somewhere they would certainly buy them at one cent as against paying $1.00.

MR. WICKWIRE: The fact was that for the period that these scissors were being given away, that it had a bad effect on hardware stores in the locality.

MR. CROWDER: Sure.

MR. CHATER: After all, if you could have got them for a cent you would not pay $1.00, you would not hesitate. You would get along without these scissors for a long time, you would still go without them, but because you could have bought them for a cent --

MR. CROWDER: I don't want to mention names, but the company that had this merchandise carries the biggest advertising space in the City of Montreal, so you can guess how large it is, and this one cent scissors deal was plastered all over the Island of Montreal in their advertising, and besides customers go there every day to buy their merchandise, everybody would know.

MR. WICKWIRE: Surely the public are not deceived by that, that is, the scissors are only worth one cent but they should be paying $1.00.

MR. CROWDER: They know that. They think it is wonderful: they get something for nothing.

MR. TAYLOR: It is not a question of deceit, it is a question of availability. The point is that anyone that did not get a pair of scissors for a cent wanting a pair of scissors is scarcely prepared to pay $1.00 for them at a later date. He prefers to withhold buying possibly waiting until they come up again for a cent at the grocery store.

MR. FAVREAU: Unless he needs the scissors in the meantime.

MR. ROSS: Yes, probably borrows them.

MR. WICKWIRE: How does that differ from the Rexall 1¢ sale?

MR. CROWDER: That is their own product.

MR. RICHARD: I think our main objection to it that the grocery store or drug store or whatever the outlet happens to be, always looks to some other class of merchandise to use as a premium to help their sales. If they gave an extra third or 33 1/3% larger box of corn flakes at the same price, I don't think any hardware dealer would ever complain, but they always have a galvanized pail to go with detergents or scrub brush to go with the soap flakes or some other hardware item for some other class of merchandise.

MR. WICKWIRE: I think I have read of one instance in England where they offered a galvanized pail hoping that they would fill it up full with merchandise and cart it away from the store.

MR. RICHARD: There are premiums in every

industry. Some of our manufacturers offer premiums. We are not too enthusiastic about them. But a wax company will make a can of wax with a third more content than the pint or quart, as the case may be, or a manufacturer will offer a premium deal where they will give the dealer twelve bottles of so-and-so for the price of eleven. But in that case they have stuck to the merchandise of the particular trade in which it is being sold; they are not giving away merchandise or anything that would take customers from a competitive business. I think that is our objection.

MR. WICKWIRE: Could any of you gentlemen give me any evidence of the effects on the sales of that type of scissors as the result of this type of practice?

MR. CROWDER: You mean the total effect?

MR. WICKWIRE: Yes.

MR. CROWDER: That would be a tremendous task.

MR. TAYLOR: Perhaps Lewis Brothers could, Mr. Crowder. It was found to have affected their immediate sales. They would be prepared probably to give you that at your hearing in Montreal.

MR. WICKWIRE: Lewis Brothers, are they retail?

MR. TAYLOR: No, they are wholesale hardware.

MR. WICKWIRE: In Montreal?

MR. TAYLOR: Yes.

MR. WICKWIRE: You suggest at the top of page 4:

"To make this possible under the present "anti-price maintenance legislation it "might be necessary for the manufacturer "in question who has decided to with- "hold his supplies from one or more dis- "tributors to file with the Restrictive "Trade Practices Commission a statement "of such intent on his part and the rea- "son for so doing".

I am sorry, that is the last line on page 4 and the top of page 5. Are you in favour of Government regulation of business or how far would you go? If necessary, how far would you go?

MR. CROWDER: I think generally speaking we are opposed to Government regulation of business and that is pretty comprehensive, but we are faced with the situation here where we have a new Act and our experience is, what little experience we have had in legislation, is once you get a new Act, the Department which administers the Act is not too keen to reverse this.

A short time ago we had an anti-price maintenance legislation. Now we have asked that the manufacturer be given the right, the legal right by legislation, and there is very considerable doubt in our minds whether that will be done at the next session. Now, if it is done, why, then our objective we have achieved, but if it is not

done what do we do after that? We cannot flounder around as we are.

If the Pressure Cooker people, for example, were to say to some distributor: "we won't sell you any more because you allowed the price to be cut", or if the Sunbeam Mix-master people said to that retailer: "we won't sell you any more because you cut the price of your Mix-masters", they are breaking the law.

How do we make it possible for a manufacturer to protect himself from the loss-leader? The C.G.E. is in the predicament now. How do they protect themselves from the company on Bloor street that is selling their floor polishers at less than cost? He cannot do that because of the price.

Well, is there any basis here by which this manufacturer could go to this Commission and say: "here is a loss-leader"? I think they will bring evidence to you here that those price-cutters bought goods from them in considerable quantity and sold them at less than what you paid for them. You might have that evidence. Can he come to this Commission and say: "Here is the predicament I am in. Here is a loss-leader. It is hurting my business and here is how. I want to cut off supplies from that retailer and the wholesaler that supplies him".

MR. FAVREAU: Would you go so far as to state in your regulations that whether the Board is concerned in determining the situation or the

solution of this particular Board of another Board, could it be said in case the Board would find that the practice hurts in fact the business of the manufacturers that that body could fix a minimum price which would be or could be lower than that originally set by the manufacturers?

MR. CROWDER: I don't think so.

MR. FAVREAU: If the Board felt this particular price was being observed?

MR. CROWDER: I don't think so, because you would be telling him now to run his business.

MR. FAVREAU: I am just asking, would you?

MR. CROWDER: No, I think he would come to you and say: "Here is the predicament I am in. We want to stop this fellow handling our goods because he is ruining our own business", and you say: "We are not going to prevent you from stopping it. You go ahead. We can see the predicament".

MR. FAVREAU: Could not the Board say you may supply him on certain conditions?

MR. CROWDER: That is a point worth considering.

THE CHAIRMAN: When you say you want to let the manufacturer run his own business as he sees fit, at the same time you want him to be able to fix for the retailer or to refuse to sell to the retailer unless he will resell at prices which the manufacturer wants, aren't you permitting the manufacturer to control retailer's business to some extent?

MR. CROWDER: But just a minute. This retailer is selling the G.E. floor polisher on which they have spent, I think it is, $100,000.00. If this retailer wants to make his own and spend $100,000.00 on it and sell it for a price $5.00 less than the others, let him do it; but he should not be able to demoralize the G.E. investment and capitalize on their investment and their goodwill to bring somebody in his store to buy an unknown refrigerator.

THE CHAIRMAN: I understand the argument, but I am suggesting that it is certainly giving a certain amount of control of the retailer by the manufacturer.

MR. CHATER: Of course he is not compelled to buy that product.

THE CHAIRMAN: But it is a certain amount of control of the retailer's business.

MR. WICKWIRE: Just on that subject, you are suggesting that the chap who was the outlet dealer who had cut prices on the G.E. product, has for his purpose only to lure the customer into the store for the purpose of buying some other article on which he has a normal mark-up.

MR. CROWDER: That is the immediate use. I don't know what sculduggery they will use tomorrow but that is what they are doing today.

MR. WICKWIRE: Take G.E. floor polishers and suppose a dealer has 1,500 or 2,000 of them and that he is willing to put them out at less than the usual mark-up and he does in fact put

them out. He is still making a profit on them and instead of selling 150 he has sold 1,500. Do you complain about that too?

MR. CROWDER: Yes, we would. In the first place he would not have anthing like 1.500. He might have 100, but there has been, certainly it has been established by practice over the years, he would inform the manufacturer: "I have an excessive quantity of your particular --", whatever it is, whether T.V's, or what-have-you, "and I am going to unload them". The manufacturer says: "Well, I will take them off your hands", or if he does not take them off his hands he can sell it any price he wants to because that is distress merchandise.

MR. WICKWIRE: It seems to me there are two different things, that if a dealer advertises that he is selling an article at a cut-price and you walk into the store and we will say he has only one or two of them and immediately tries to sell you something else, that he has got you into the shop by false advertising.

MR. CROWDER: We submit though that he has no right to sell at cut-price. That is the basis of our tenet, that he has no right to cut the price if the manufacturer does not want him to.

MR. WICKWIRE: Do you go this far, that you have suggested the average cost required in the hardware business is 20%?

MR. TAYLOR: No, the average cost of doing

business is considerably higher in the average hardware business than 20%. It is closer to 30%.

MR. FAVREAU: Of the average wholesale cost?

MR. TAYLOR: Selling price.

THE CHAIRMAN: I wonder if we could get a fairly accurate estimate?

MR. TAYLOR: Just in the recent volume of Hardware and Metal Magazine they are carried over a period, and the D.B.S. has them as well, all in detail that the average is closer to 30% of the cost of doing business in retail hardware business than to 20%.

THE CHAIRMAN: 30% of the selling price?

MR. TAYLOR: Of the selling price.

THE CHAIRMAN: And what would you regard as a normal average margin of profit on top of that?

MR. TAYLOR: 33 1/3%.

MR. FAVREAU: That is 33 1/3% profit?

MR. TAYLOR: Of selling price.

THE CHAIRMAN: That is roughly 50% mark-up?

MR. TAYLOR: On cost, yes. It goes higher than that. On some branded lines it goes 35%.

THE CHAIRMAN: But that would be your average approximately?

MR. TAYLOR: Yes.

MR. WICKWIRE: I suppose that average must be arrived at by taking into consideration a great many items?

MR. TAYLOR: That is right.

MR. WICKWIRE: Would you say that a dealer

whose cost is way below the average must maintain that average?

MR. TAYLOR: No, I would not say that. I would say that if a dealer's costs are substantially below that, he must be doing a terrific volume of business and I do not say that we should legislate for big business as against small business.

MR. WICKWIRE: Well, had you some suggestion that would be helpful as to how the two could be enjoined or how you would allow the fellow who is so efficient, we will say, that his costs are below average, to charge less to the consumer?

MR. TAYLOR: I would not suggest that we suggest that average mark-up be placed on every item that a retail hardware sells. The average hardware store probably contains 8,000 to 10,000 different items a year, and the mark-ups vary considerably on those items, depending on the investment, rapidity of turnover and many other factors. I am suggesting only that the manufacturer have the right to determine how he merchandises his products and that he have the right to withhold merchandise from any distributor or dealer who fails to follow the merchandising pattern.

Now, that would still give free play to the forces of supply and demand and ordinary competitive practices. I am not suggesting, as to some extent was done during the war period, an established mark-up basis for a retail hardware store at which everything should be sold and was

sold. That to my mind is an artificial basis which is just as dangerous as the situation that exists today is, or would be rather.

MR. WICKWIRE: But you won't suggest, perhaps you don't care to suggest, how any large dealer whose costs are below average in the trade can pass on any benefits of those lowered costs to customers on a price maintained article?

MR. TAYLOR: I would suggest that the manufacturer's idea of mark-up at the various levels in return for the services that the manufacturer receives inso far as the handling of his products is concerned, is barely enough for any dealer, no matter what his operating costs may be, to make an adequate profit; that I am suggesting that there is no further margin for squeezing insofar as efficiency is concerned.

MR. WICKWIRE: That applies to all manufactured articles that your Association deals with?

MR. TAYLOR: All articles which we generally have considered in the past as price maintained.

MR. WICKWIRE: Well, did it apply, for instance, to refrigerators?

MR. TAYLOR: Yes, it applied to refrigerators, small appliances, large appliances.

MR. WICKWIRE: What would the mark-up be on a refrigerator, price maintained?

MR. TAYLOR: At what level?

MR. WICKWIRE: Dealer level.

MR. TAYLOR: Anywhere from 35 to 40%, 30 to 40, I should say.

MR. CHATER: 25 and 10 is the considered --

MR. CROWDER: I think you are maybe confused about that.

MR. TAYLOR: No, I would say 30 to 40%. You get some refrigerators that may be mark-up at 30% and you get some buying levels of dealers who could mark it up at 40%.

MR. WICKWIRE: And you say that that is a realistic range?

MR. TAYLOR: That is a realistic range commensurate with the work and the cost of doing that work, insofar as the dealer is concerned.

MR. WICKWIRE: What work does he do for that mark-up?

MR. TAYLOR: Well, the first thing he does is invest $300.00 or $400.00 in refrigerators. He does considerable manual labour in getting the refrigerator in his store. He probably talks to 50 or 100 people before he sells one of those refrigerators. He spends considerable sales talk and effort on that refrigerator. He then delivers the refrigerator to that one customer out of 100 that actually buys it. Yes, he carries it up the stairs and he carries a substantial portion of the investment over a period of anywhere varying from 30 days to 12 months or more. He takes all the credit responsibility insofar as loss is concerned. He guarantees service on that

refrigerator for a year. No matter how technical this age may be, there are very few electrical appliances that during the course of a year do not have some reason insofar as service is concerned.

I would say that a return of 30 to 40% of selling price is very realistic and commensurate with the work to be done.

MR. WICKWIRE: I accept that. Now, if next door instead of investing $300.00 in refrigerators as you have mentioned, they invest $5,000.00 or $6,000.00 and they give all the service, except perhaps the sales talk which may have been given for them by the manufacturer, and can still sell to the customer at a less price, is there anything wrong there?

MR. TAYLOR: Yes, insofar as the manufacturer is concerned, because who is going to buy that product from the dealer that we were speaking of earlier, when it can be bought from 10 to 20% lower at the secondary dealer's place? The result is that that first dealer eventually gets out of the refrigerator business. That means that the manufacturer has one less outlet, in that particular case which, multiplied by the many cases of the many dealers, means considerably less people in Canada selling his merchandise for him and drives the refrigerator business into the hands of the few who are concerned primarily with turnover rather than goodwill, long-term goodwill, long-term good service insofar as

the consumer is concerned. I would say that that is detrimental to us and to the consumer in the long run.

MR. WICKWIRE: Then you must, I take it, suggest that a dealer with a low average cost of doing business, cannot pass any of that advantage on to a customer?

MR. TAYLOR: I made the statement earlier that there is not sufficient margin on a nationally advertised line for an excess profit to be obtained through efficiency in operation and still perform the services that are expected by the manufacturer of that particular product. I still maintain that.

MR. WICKWIRE: It has been suggested that in some instances the suggested price of an article is unrealistic. You disagree with that as far as hardware items are concerned, I take it?

MR. TAYLOR: On the basis of being too high?

MR. WICKWIRE: Yes.

MR. TAYLOR: Who said that? I did not make that statement.

MR. WICKWIRE: I say you disagree with that?

MR. TAYLOR: No, I wouldn't say that. I would say there are prices probably that are too high but I certainly would not refer that to be the case of the products to which we have particular reference, what we have considered in the

past as price maintained lines. If the price is too high I would say it has not been the case at either the distributor's level or the retailer's level.

MR. WICKWIRE: I am suggesting to you it has been so high that it has enabled people to come in and sell quantities at a discount.

MR. TAYLOR: No, anybody is going to sell a quantity who is prepared to give a discount on the same product. I don't think that is a litigimate argument that the price was too high originally.

I think the case is, if anybody is prepared to sell at a lower price the same article, they are bound to sell more than they would at the higher price, but that does not necessarily prove the original price was too high.

MR. WICKWIRE: I suppose they can purchase them also at the lower price because of the quantity to purchase?

MR. TAYLOR: That would be possible, I imagine.

MR. WICKWIRE: One of you gentleman stated that a lot of appliance dealers had gone out of business.

MR. TAYLOR: Yes, Mr. Chater.

MR. WICKWIRE: Do you know, Mr. Chater, can you tell us anything about the increase in appliance dealers in the Toronto area in the past few years?

MR. CHATER: Well, they are less, there is

not an increase. As I say, originally we had 5 travellers, now we have 3. If there were more of them we would not be taking travellers off the road.

MR. WICKWIRE: Originally you had 5?

MR. CHATER: Originally we had 5 calling on appliance stores; now we have 3. If we could find work for those 5 today we would not have taken two men off the road.

MR. WICKWIRE: When did you have the 5?

MR. CHATER: Maybe a year ago, two years ago. We have 3 now.

MR. WICKWIRE: How many would you have had, say, in 1946 and 1947?

MR. CHATER: We did not have any appliance business in 1946 and 1947.

MR. WICKWIRE: When did you go into the appliance business?

MR. CHATER: I would say we have been in it about eight years, seven years probably. We have broken down our sales organization into three distinctive departments. We have wholesale hardware. Now, at one time our hardware travellers called on appliance and hardware stores, and some of them called on industrial. At the present time we have an industrial division, an appliance division and wholesale hardware division.

We started out by having 5 travellers calling on the appliance stores and sometimes they worked pretty hard. We can cover all who we want

to sell now with three salesmen.

MR. WICKWIRE: That is just the point. Is your statement based on the fact that your salesmen are calling on the ones you want to sell or that there are in fact fewer appliance stores?

MR. CHATER: There are fewer appliance stores and some of them, their credit is questionable. This list I happen to have here, half of them are marked there questioning their credit, principally because they have not been making a profit.

MR. WICKWIRE: Were there too many of them?

MR. CHATER: Well, I am not prepared to say. There is no criterion to say that you cannot go into any kind of business if you want to.

MR. WICKWIRE: Was there not a tremendous growth in the number of appliance outlets from 1946?

MR. CHATER: Well, when things cleared up off rationing there was a certain amount. Previous to that it was hard to get appliances. There was considerable growth because things were more plentiful.

MR. WICKWIRE: At a time when it was difficult to get appliances and everybody was wanting appliances, didn't you get a tremendous growth?

MR. CHATER: No, you couldn't get much growth because you couldn't get the products. One man that we sold six irons to, we go over and see

he is unhappy. We tried to give him more. What he wanted to do I don't know. Going into the appliance business he would have been out of luck getting material to sell.

MR. WICKWIRE: I suppose there was no difficulty for that man to sell those irons because he probably had a waiting list for them?

MR. CHATER: That is right.

MR. WICKWIRE: As goods became more plentiful isn't it the fact that some of the appliance dealers started to drop out of business?

MR. TAYLOR: No, they started to increase.

MR. WICKWIRE: Started to increase?

MR. TAYLOR: That is right, because they could get goods then.

MR. WICKWIRE: Now, when did they start to decrease?

MR. CHATER: When price maintenance was abolished, definitely, no question about that, and they started to cut prices so there was no profit in appliance business, and they started to get hard up and they didn't have any money and got out of the business.

MR. WICKWIRE: Do you know a journal called Hardware and Metal?

MR. CHATER: Oh yes. We give them most of their information if that is any interest to you.

MR. WICKWIRE: You give them most of their information?

MR. CHATER: Along that line, yes, prices

MR. WICKWIRE: Here is a page of Hardware and Metal dated July 18th, 1953:

"Every appliance dealer or hardware
"retailer selling appliances who res-
"ponded to the request for opinion
"stated emphatically that there are too
"many dealers. Said one: 'Where we
"now have 15 appliance dealers in our
"town of 8,500, we had approximately
"4 or 5 prior to the war'.

" It must be admitted that since
"the war the population of that town
"had probably increased, but has it in-
"creased three-fold? This would have
"made the pre-war population less
"than 3,000.

" The representative of a large
"wholesale house in western C nada made
"this remark on the subject of fran-
"chise:

" 'Definitely there are too many
"appliance dealers in the larger cities
"and towns and it will be a case of the
"survival of the fittest'.

" Another dealer had this to
"say:

" "One of the problems facing re-
"tailers today is that when electrical
"appliances were in short supply every-
"body who was able to grabbed them and

"put them on their floor. Today in
"Saskatchewan you can drive into any
"little village where there is an im-
"plement business or a garage, and you
"will find sitting on their floor washing
"machines, refrigerators, electric ranges;
"and also a number of them carry the
"smaller appliances, that is toasters,
"irons, etc. These people consider these
"as not really a part of their business
"and will dispose of them at any price,
"or if they sell an implement will throw
"in a refrigerator or a washing machine
"at cost as a premium'.

" Does this indicate that the manufac-
"turers are to blame for the situation?
"One dealer put it this way:

" 'Greedy merchandising policies plus
"inexperience (on the part of many dealers)
"plus poor control over sales representa-
"tives in the fields, has enabled anyone
"with a few hundred dollars to get a fran-
"chise. The results are as expected.'"

MR. CHATER: I would not go along with that altogether. There is a certain amount of truth in it.

MR. TAYLOR: What is the point established by all that?

MR. WICKWIRE: I am suggesting that there has been a great increase in dealerships in appliances in nationally known articles and nationally advertised

articles because of the spread, because of the margin.

MR. TAYLOR: Are you suggesting that there has been a greater increase of dealerships than the increase in population and the increased consumption of electrical appliances? You must remember that the consumption of electrical appliances has increased terrifically since the war period.

MR. WICKWIRE: Because of the availability?

MR. TAYLOR: No, because of the advertising, promotional work of the manufacturers in proving to the consumer that some of these electrical appliances are a need rather than a luxury.

I was just referring quickly back to pressure cookers again. I think during the war period I had occasion to have access to the importation of pressure cookers prior to the war. In 1939 I believe there were no pressure cookers manufactured in Canada and something like 2,400 were imported.

Now, if you will look at the pressure cooker production figures for, say, 1953, you will find that they have created a terrific demand for pressure cookers since that time, and the consumption figures of pressure cookers, I would say, would be greater than the proportionate increase in electrical appliance dealers in those two periods.

I make the point that the consumption of electrical appliances must be taken into consideration as a cause of the growth of the number of electrical appliance dealers.

MR. WICKWIRE: Well, I am trying to find out, Mr. Taylor -- you have suggested, and other of your representatives have suggested, that the cure, or that the trouble has been that resale price maintenance has been made illegal, and I am trying to find out if there is anything in the suggestion that there have been too many dealers that has caused some of the --

MR. CHATER: That particular case you have there, the agricultural man, we would not have considered him an appliance dealer. He has got two or three items in there. We don't consider a fellow an electrical dealer that will buy $300.00 or $400.00 worth of merchandise. If he has got a washer and a couple of toasters in there that is not a dealer. That is a fellow playing around the edges just to disturb it.

Y u might consider the jeweller a dealer, but you get a jeweller who will have a toaster and an iron; we would not consider him a dealer either. In fact I doubt whether we would want to sell him even if his credit was good. Those are not dealers.

MR. TAYLOR: Sir, I would go along with you that probably there have been too many appliance dealers in business insofar as demand for appliances is concerned.

Immediately after the war everybody and his brother wanted to get either into the sporting goods business or the appliance business of some

kind, but I am suggesting that the very serious increase in casualties insofar as appliance dealers are concerned, is not commensurate -- is more than commensurate with the number of appliance dealers who could conceivably operate profitably in the field.

MR. WICKWIRE: I refer again to your Hardware and Metal Journal of July 18th, 1953, that at least one of the hardware people said that:

"The answer to this major question lies
"entirely in the hands of the manufacturer. I am afraid that they are only
"now beginning to wake up to the fact
"that their lack of foresight, probably
"even more than Government interference,
"is responsible for present conditions."

From another merchant came this overall comment:

"We really think the manufacturers are
"producing more appliances than the market
"can take care of. Most dealers are
"over-stocked, wholesalers are over-
"stocked, and we believe that some of the
"manufacturers are getting over-stocked.
"This naturally will lead to chaos."

MR. ERSKINE: I don't agree with that.

MR. CHATER: Who wrote that article? Who is the editor?

MR. WICKWIRE: One of your hardware people.

MR. TAYLOR: That was merely the idea of an individual, wasn't it? Did he represent anybody?

MR. WICKWIRE: I suppose it is as a result of a survey made for the Hardware and Metal Journal.

MR. CROWDER: Didn't that come out of the meeting? Wasn't there a meeting and you quote somebody who was present at the meeting?

MR. TAYLOR: Do you not think that you are likely to get a great many different opinions on this subject?

MR. WICKWIRE: This was at the 10th Annual Convention of the Ontario Association of Radio, Television and Appliance Dealers held in Toronto on April 12th to 15th, in reply to a Hardware and Metal questionnaire. Little or no reference is made to resale price maintenance. The contention has been, if anything, that manufacturers for one or another reason must accept the main responsibility for the retail trade's plight.

MR. TAYLOR: Everybody is inclined to blame everybody else for their troubles.

MR. WICKWIRE: I suppose that is human nature.

MR. CROWDER: Mr. Wickwire, isn't there a point in this that perhaps we might be losing sight of? There is not only just one toaster or one iron or one refrigerator; there are lots of them and more going out. If these people want to show their skill as distributors and as merchants, if they cannot cut a price on a General Electric toaster or a Mix-master, why don't they get something else? The world is full of things.

why don't they use their own skill and acumen and research rather than demoralize some other's skill and research? Why don't they open their door and run their own show?

MR. WICKWIRE: I don't suppose anybody is questioning that these nationally advertised articles are good articles and that there are probably second-best articles. I don't suppose anybody will question that, but the suggestion has been -- and I am trying to find out if there is anything in it -- that because they are good articles and because they are nationally advertised, probably because a price has been set on them or even a suggested price, that that is the thing that has caused part of the trouble.

Now, that is only a theoretical statement of my particular -- I would like to know if I am wrong in making that suggestion?

MR. CROWDER: Well, if there were a monopoly, if Frigidaire made the only refrigerator that was sold in Canada, they might be able to put on a price of $500.00 on a $300.00 refrigerator and people might buy some of them; but having no monopoly there are all kinds of refrigerators.

MR. TAYLOR: It is the manufacturer's desire to keep the resale price at the retail level as low as he possibly can to enlarge the market in which he has to sell, so that there is pressure from that point towards controlling the lowness or highness of the price.

MR. WICKWIRE: One of you gentlemen suggested that it was possible to maintain a resale price maintenance when the spread on price maintained goods was less than on other goods.

MR. TAYLOR: I did.

MR. WICKWIRE: I have a report of the Committee on Resale Price Maintenance, June, 1949, of Great Britain.

MR. TAYLOR: I am speaking of the lines which we handle. I am not speaking about the grocery lines or dry goods or British lines; I am speaking of the experience that we have run into insofar as Canada is concerned.

MR. WICKWIRE: Well, in Great Britain, as you probably know, they have had a system of resale price maintenance for many years:

"On the whole the margins allowed on
"price maintained goods appears to be
"lower than those taken on free goods.
"The instances vary, however, from product
"to product and from trade to trade. We
"do not attach any great significance to
"the fact that margins on branded and
"price maintained goods depending on well
"known lines are generally lower.
"Indeed we should have been disturbed had
"this not been the case, for such goods
"do not ordinarily require, among other
"things, the same sales effort as un-
"branded goods. There is therefore no

"comparison between the two classes of "trade."

I suppose there are so many variants that you have to take into account.

MR. TAYLOR: Yes, I would agree with that statement except insofar as it fails to take into consideration that as far as branded lines are concerned there is very often considerably more work involved at the dealer and wholesaler level because of the fact that the dealer or distributor has a definite service to function insofar as those lines are concerned, generally speaking; whereas on an unbranded line he has not a great deal of responsibility or service. If a fellow buys an iron that has no name, he is inclined to accept the fact that he has probably got to buy an iron if it did not work and not expect the dealer to do very much about it.

MR. WICKWIRE: One of you gentlemen used the expression (I think it was Mr. Richard) that he felt sorry for the manufacturers of these particular items. If a particular manufacturer's volume has been increased, if his distribution has been enlarged and he is making more money than he did before, are you still sorry for him?

MR. RICHARD: I have been led to believe that such is not the case, of course.

THE CHAIRMAN: You would not be so sorry then?

MR. RICHARD: Not having access to their

books I wouldn't know.

THE CHAIRMAN: You wouldn't be half as sorry if he was making more money?

MR. RICHARD: No, that is right.

THE CHAIRMAN: There is one question that has always puzzled me from the economic point of view. The presentation you have made this morning has presented the argument that when prices are cut substantially by some dealers, that that leads to a total loss or loss in total sales of that product to the manufacturer.

MR. ERSKINE: That is right.

THE CHAIRMAN: I have already been led to believe that economic experience is that when you lower prices you extend the market. That is usually looked upon as a fairly sound principle of economics, that you extend the market because prices being lower there are more people who think they can afford to buy or think this is a good time to buy. If that is the case and a great number of people purchase the article who would not be interested if the price had been held at the former level, isn't there some contention that the total sales might be increased rather than decreased as the result of cutting of prices? We have heard some evidence submitted to us of that kind.

MR. TAYLOR: That is a very good point except insofar as the fact that merchandise is still sold on availability, and if there are fewer outlets, which there would be carrying your theory to its

logical conclusion, then there are less places with that particular merchandise available.

I think experience has shown that the more places that have a product displayed and promote the sale of a product, the more likely it would be that there would be greater sales under those circumstances than where a product is sold by relatively few.

In other words, your argument might be 100% insofar as the City of Toronto is concerned.

I represent an area, a very sparcely populated area, Northern Ontario, to whom the merchandising of an electric iron by one or two people in Toronto does nothing to promote the sale or the purchase of an iron insofar as they are concerned.

THE CHAIRMAN: Would the sales in those distant places be affected by the fact that in Toronto the price has been cut?

MR. TAYLOR: Yes, our experience has been that that is the case because of the fact that our medium of information is basically a Toronto newspaper, and the Toronto newspapers advertising electric kettles at $7.95, that information is available to the consumer in the small town, and, as some one pointed out earlier they therefore think thet the local retail hardware store is what you might call "horsing" them when they charge them $12.95.

THE CHAIRMAN: They won't write to Toronto

and buy it for $7.95?

MR. TAYLOR: No, they won't. They will resist buying that iron at $12.95 that they know other people can get for $7.95. Yet they still won't write in to collect it.

THE CHAIRMAN: It is a psychological rather than an economic reaction?

MR. TAYLOR: Well, psychological to the extent that it affects the economics of the case.

MR. RICHARD: Destroys confidence in the fact that it is a fair price.

MR. CROWDER: There was a test made in Winnipeg, Mr. Chairman, that might answer the point you have. You all remember the famous Eno's Fruit Salts? That was sold by a very large department store in Winnipeg at sales occasionally in the drug department, and this was repeated again and again, and the other retailers in the community could not buy from the wholesaler at the price at which this large department store sold it at certain sales to bring the people into the store.

Eventually the retailers in the City of Winnipeg refused to display that commodity and they would not buy it from the wholesaler, because they could buy it cheaper from the department store. They would do that. If the sale was offered, they would go over to the store and get a half-dozen and put them under the counter and you had to beg it across the counter in order to make a purchase in any of the individual stores.

Now, Eno's is a good product as far as that is concerned and advertising did most of the selling, but the manufacturer eventually found that the results from advertising in Manitoba and Winnipeg were less than any other part of Canada. Their sale was killed there by the apathy of the retailers for their product. They liked the company and they liked the product but they would not sell it and they eventually had to make the necessary arrangements to prevent them from being slaughtered on the market and the sales went back up again. That went over a period of years. I think I could get the information for you.

MR. WICKWIRE: The converse of that story that you have just told us --

MR. CROWDER: That is not a story, that is a fact.

THE CHAIRMAN: Cannot a story be true?

MR. WICKWIRE: The converse of the Winnipeg occasion, the same episode took place in one of the American States where Pepsodent -- as a matter of fact it took place pretty well all over the United States -- Pepsodent did not wish to maintain, put a price on their tooth paste. The druggists said: "We will just not stock your tooth paste", and they did not, so they more or less forced them to say: "You set a price for your tooth paste", and in addition to that I think they kicked in a sum of money to the War Chest for resale price maintenance. I believe the same thing

happened to Barbasol which is another well known product.

MR. TAYLOR: What was the effect on the sales?

MR. WICKWIRE: Of Pepsodent?

MR. TAYLOR: Yes.

MR. WICKWIRE: It was very deleterious. They were forced by the retail druggists to tow the mark.

MR. CROWDER: Well, I remember R.E. Spline was the sales manager of the Pepsodent Company in Chicago and I was in the retail drug business in Vancouver. We agreed to distribute their little 10¢ coupons effective on tooth paste. Some of you gentlemen will remember it. The day we were to distribute all these in Vancouver, the company right across the street sold Pepsodent below our cost. So we kept all the samples in the basement and wired Mr. Spline to come and get them. He came to Vancouver and established a minimum resale price on Pepsodent. So far as I know at that time it was the only place on the North American Continent where Pepsodent had a minimum retail price.

He came to a convention here in Toronto some time after and told the convention of about 500 businessmen that his company sold more tooth paste in Vancouver on a $1.00 of advertising by maintained prices than they had in any place else in the United States or Canada, even Chicago included. So when they place the retail

price on a reasonable basis, the manufacturer did get more business out of it than if he had not.

MR. TAYLOR: To get back to your question, the very fact that so many manufacturers feel that the revocation of the resale price maintenance would be to their advantage disproves your point insofar as wideness of the market at a lower price.

In other words, if the manufacturer were satisfied that this cut-price business would increase their market, that is after all what they are in business to do is to sell as many goods for as much as they can get, and if their experience proved that that increases the market for their products, then I would imagine that they would be very much in favour of it rather than opposing it.

THE CHAIRMAN: What I was getting at, it seemed to me that in some instances there would be people who would buy at the cut price who would not have bought if the price had been maintained. and you have to set that off against the results that you have been speaking about.

MR. TAYLOR: Yes.

THE CHAIRMAN: Largely due to dealers losing confidence because they cannot make any money on the article. You have to set one thing off against the other. In some cases the total result may be good and in some instances bad.

MR. TAYLOR: Yes, and there may be a difference between the short term and long term, and insofar as the manufacturer is concerned he is

more concerned with the long term problem than the short term.

THE CHAIRMAN: Yes, he is concerned with constantly widening the market if he can get it in some fashion. Have you any more questions?

MR. WICKWIRE: No, Mr. Chairman.

MR. WHITELEY: Mr. Chater, I think you used the illustration on the sale of a washing machine. Have I got down your figures correctly? I think you said that the price from the wholesaler to the retailer was $99.00?

MR. CHATER: No, the price from the manufacturer to the wholesaler was $99.00 and the retailer was selling it at $99.00. He was supposed to sell at $119.00. He was selling at what the wholesaler paid for it.

MR. WHITELEY: You say the overall spread from the manufacturer to the consumer was $20.00?

MR. CHATER: No, it is more than that.

MR. FAVREAU: From the wholesaler to the retailer?

MR. CHATER: Wholesale price was $99.00 and consumer price, $119.00.

MR. WHITELEY: That is what I thought I had taken down. I wanted to check that those figures are the right ones. The margin then would be 20%?

MR. CHATER: That is it.

MR. FAVREAU: 18%.

MR. CHATER: Well, it is close to 20%. That

is a good profit on a washing machine.

MR. WHITELEY: Less than 20%?

MR. CHATER: About 20%.

MR. WHITELEY: What would have been the normal --

MR. CHATER: That was the set-up, as far as I remember, $119.00 and $99.00.

MR. WHITELEY: What would have been the normal margin on washing machines prior to the new legislation?

MR. CHATER: Well, I think it would be a little higher than that.

MR. WHITELEY: It would have been higher?

MR. CHATER: Yes.

MR. TAYLOR: That point does not necessarily follow. Prior to the legislation a lot of manufacturers distributed washing machines directly to the dealer. In actual practice even today most of the washing machine manufacturers in Canada do that. With the result that there is a very small margin insofar as a distributor is concerned if he is to be fitted into the picture.

MR. WHITELEY: This is the dealer?

MR. TAYLOR: Yes, that is right. Possibly in the case of White's washing machine both the distributor and dealer's profit margin had to be fitted into a price that would be competitive to the direct distribution from manufacturer to retailer, and possibly that accounts for the lower margin. Is that right?

MR. CHATER: That is right. In fact, I objected to the small margin we as jobbers were making. As a rule we had to send two people on a truck, we had to put a blanket over it and take it up some stairs probably. A lot of these retailers expect a lot from the jobbers. We made less than 10% on it as jobber.

MR. WHITELEY: You have other lines of washing machines on which you make a larger percentage?

MR. CHATER: No, we have been out of the washing machine business for some time. We are trying to get back into it.

MR. WHITELEY: Why do you want to get back into it?

MR. CHATER: Well, it helps to round out our lines. We have stoves, we have refrigerators, and if we are going to take a dealer set-up you have got to go across the board. You pretty well have to have washing machines. I understand the next thing they will ask us to put in is radios, at least television, which I do not want.

MR. TAYLOR: Might I suggest that that particular case bears no relationship to the Resale Price Maintenance Act whatsoever. That condition might just as easily have existed prior to price maintenance or the banning of it.

My point is that I think Mr. Chater is not buying his washing machines right in order to sell at a profit. My company buy a washing machine

on which we make 16% on selling, and we are able to give the retail dealer 30% on selling.

MR. WICKWIRE: That is more in line with what is suggested before the Joint Committee in 1951 as submitted by the Canadian Electrical Manufacturers Association, that on an appliance, washer, the percentage mark-up from dealer to consumer was 54.1 prior to the tax increase and 53.7 after the tax increase.

MR. TAYLOR: That is mark-up from manufacturer to consumer?

MR. WICKWIRE: From dealer to consumer.

MR. TAYLOR: That must be on cost, not on selling?

MR. WICKWIRE: Well, the suggested price of this same machine, suggested consumer list price, was $159.50; dealer cost, $103.50.

MR. TAYLOR: That would be 50% on cost.

MR. WICKWIRE: Distributor's cost, $89.75, manufacturer's cost, $97.41.

MR. ERSKINE: Pardon me, what year does that say?

MR. WICKWIRE: 1951, November 13th, 1951.

MR. CHATER: Did I answer your question? I don't know whether I got away from it or not. We took these washing machines so as to round off the picture so that we had a dealer set-up. We hoped to make a profit on some of the other lines.

THE CHAIRMAN: Your actual margin there would be about 16.8% of the selling?

MR. WHITELEY: Would you consider your washing machine a loss-leader?

MR. CHATER: Well, it is a necessary evil probably.

MR. TAYLOR: It is not a loss-leader, it is a loss in order to do business.

THE CHAIRMAN: It might be meeting a competitive price of a similar article possibly which is not usually considered loss-leadering. There was one little question. I think the answer is probably perfectly clear. At the bottom of page 1 of the brief you speak of the use of hardware items for loss-leadering and premiums by a considerable number of retailers and manufacturers. Do you mean manufacturers of other things than hardware, do you?

MR. CROWDER: Yes.

THE CHAIRMAN: I wanted to be clear. You were not including hardware manufacturers?

MR. CROWDER: No, food stuffs and things like that.

THE CHAIRMAN: You just said "manufacturers". We have to be sure you don't include your hardware manufacturers because if some of them were in this business we would like to know something about it.

Any other member of the delegation wish to add anything? Because I think we have completed our questions. If not, that will bring

this presentation to an end.

MR. CROWDER: I would just like to thank you for such a reception, Mr. Chairman.

THE CHAIRMAN: And you for your presentation. We are anxious to get the facts and the more facts you can give us the better and our questions, I think, have to be asked, I think you will agree, because you are presenting one point of view, that is of the hardware people, and there may be other points of view and there is nobody here to ask the questions that would get the answers to the other point of view unless we do it.

MR. CROWDER: Thank you very much.

---The hearing adjourned until 2.00 p.m.

F.A.L.
J... 7
P.M.

Delegation from: CANADIAN SPORTING GOODS AND CYCLE ASSOCIATION.

Comprising: Mr. John H. Jardine, President,
Mr. Phil Tyas, Vice-President,
Mr. P.J. Wardle Executive Secretary.

---On resuming at 2.05 o'clock p.m.

THE CHAIRMAN: The hearing will resume now, gentlemen.

The first brief we have on the agenda for this afternoon is presented by and on behalf of the Canadian Sporting Goods and Cycle Association Incorporated. Those supporting this brief might come to this table, I think you will find it convenient to sit there.

Who is going to present the brief?

MR. JARDINE: Mr. Wardle, our Executive Secretary.

THE CHAIRMAN; Perhaps you would give us all the names of those appearing.

MR. JARDINE: Phil Tyas, Vice-President of the Association, Mr. Percy Wardle, Executive Secretary, and myself, John Jardine, President.

THE CHAIRMAN: You say Mr. Wardle will present the brief. The practice we have followed is that whoever is presenting a brief reads it first. He may comment on it as he goes along or at the end of the brief. Then, any other members of the delegation who

wish to make any comment may do so. We wish to have the brief on the record early in the proceedings.

MR. WARDLE: "Memorandum to: Restrictive Trade "Practices Commission, Ottawa, Ontario.

"Gentlemen:

"The Canadian Sporting Goods and Cycle "Association is a representative group of manufac-"turers, wholesalers, jobbers, agents and "retailers, dealing, in their respective "categories, in sporting goods and equipment, "recreational, athletic, wheel equipment and "other allied equipment and supplies. A con-"siderable portion of the members, particularly "the retail group, deal also in television, "radio and hardware.

"Our representation is approximately six "hundred strong and is nation-wide, . . . "

Maybe I could stop there and state we have an affiliated association which helps to give us that membership. Actually our single membership is less than that but the Toronto and District Bicycle and Sports Dealers' Association is affiliated with us and we have their authority to represent them in this brief.

". . . from Newfoundland to British Columbia. "It comprises both large and small operators "from the well-known national and international "manufacturer, the department and chain store, "to the small owner operated retail sports goods

outlets.

"Your commission is seeking data concerning so "called loss leaders. Your communication of "April 7th states 'The enquiry is intended to "include all aspects of the problems of loss "leaders' therefore this enquiry must of neces- "sity, be tied in with presently existing price "maintenance policy or rather the lack of such "policy.

"Repeal of price maintenance has developed "a serious loss leader practice. Previously a "loss leader served its purpose of attracting "the buyer to the retail store thereby present- "ing an opportunity to view other merchandise. "The loss leader would be advertised and offered "at a price, any price - all the way from "slightly lower than usual mark-up, to less "than purchase price.

"It applied to merchandise which could not "be price maintained. Merchandise of a general "description type and the type of goods which "the public might well consider whether or not "it was equal in quality to similar goods else- "where and being sold at usual prices. It also "applied to inferior goods hiding under quality "article banners and since the customers' dis- "cernment as to quality, style, etc. entered "into the decision, little harm was done. Today "the loss leader is a different piece of mer- "chandise. Due to repeal of price maintenance,

"so called 'Brand name' goods are being used as "loss leaders. The public know, without inspection, "that a certain make, size, etc. is exactly the "same article regardless of price and human nature, "being what it is, the 'Bucket Shop' type of "operator is attracting the customer, very often "by false or misleading advertising, at the "expense of the reputable merchandiser.

"This reputable merchandiser is the well "known department store, chain stores and good "business institutions who take pride in their "outlets and their community and try to maintain "good business ethics and morals. They are being "forced to meet this competition against their "will and definitely against sound business "practice."

There are a lot of well-known organizations, without mentioning any names, which are selling at cost or nearly cost and when we speak to them, as we have an opportunity to with a number of them, they are just as much against it as any one else. It has developed to the point where the reputable dealer has to sacrifice in order to stay in business, in order to meet his competition and look his friends in the face - "If you can buy from John Smith you can buy from me". They are not necessarily the culprit.

"Taking a long range view, a great many of the "smaller and lightly financed operators will be

"forced out of business and replaced by a tran-
"sient bloc of 'Fly-by-night' unscrupulous
"individuals.

"What is a loss leader? Any merchandise
"advertised for sale at equal or less than the
"laid down cost plus the operator's average
"overhead. An article purchased delivered for
"$1.00 and assuming an average overhead of .20
"represents a proper cost of $1.20 and if sold
"for this amount, no profit is made. If sold
"for less, a loss results and in either case,
"such a transaction is unsound from any point
"of view. Some of our members advance the argu-
"ment that a loss leader exists where a sale is
"made at a lesser figure than the normal mark up
"to include a reasonable net profit for the
"particular article or class of goods."

We have mentioned that but we still feel that overhead should be in there because if a sale is made at less than the purchase price, plus an average overhead for the retail outlet, it is definitely a loss.

"We repeat that loss leadering
"has always been with us but has now developed
"serious proportions because the name, ethics
"and reputation of the dealer or outlet is not
"a factor with 'Brand Name' goods. A manufac-
"turer's brand is the same quality of material,
"workmanship and style, regardless of whom the

"selling may be.

"Why then can the unscrupulous operator sell "this 'brand' at his cost or less as against the "ethical operator who wants a fair and reasonable "profit and consequently, a higher price.

"1. In many cases he finally sells at a *higher* "price. He first attracts the customer with false "advertising and then adds on extra charges for "packing, delivering, extras, excessive participa- "tion in finance charges, warranty, service, etc. "The customer is now in the store but the next time "he resolves to go to a reputable dealer. Too late "for this transaction and the resolve is soon "forgotten.

"2. Usually operates in a low rent and tax area. "Does not assume a fair share of community respon- "sibility, financially and otherwise, and often is "not an asset in the community.

"3. Again by false advertising, attracts cus- "tomers to his place of business only to find that "the particular loss leader is 'sold out' but that "he has some other merchandise, 'equally as good'.

"There are many other reasons.

"What does the practice mean from a national "economic point of view? Does it sell more mer- "chandise? Does it create more prosperity?

"No more merchandise can be sold . . . "

- - - - -

I might have said "[illegible]" there.

- - -

". . . than the purchasing pool can buy, including
"time purchase plans and the apparent saving in
"the customer's dollar is absorbed by extra charges
"already mentioned. Some of our manufacturers
"report that heavy loss leadering practice has
"actually reduced their sales because the public
"had less confidence in their branded product.
"Certainly increased prosperity does not develop.
"We have already mentioned that the customer's
"saving is absorbed. Conversely, however, the
"merchandising organisation, content to operate
"for a fair and reasonable profit and not having
the capital to sacrifice, has now got his back to the
"wall. Projecting our thinking a few years ahead,
"clearly this will not benefit anybody. In 1953,
"one group of retailers alone (Radio and Appliance)
"suffered a 117% increase in business failure,
"over 1952.

"Provided mark-ups are kept to reasonable
"limits, manufacturers and jobbers are entitled
"we think, to have their products protected.
"Likewise the retailer is entitled to protection
"from indiscriminate distress selling and loss
"leadering of well-known and brand name merchandise.
"We do not find it practicable to furnish the
"tremendous detail you have asked for as outlined
"in your memorandum of April 7th. We feel that
"many other trade groups will be in the same
"position. [illegible] preliminary enquiries made [illegible]
"we are told, [illegible] notable for the relatively small

"proportion of questionnaires which were answered. "The questions were and still are, far too detailed for "many groups and certainly for the varied activities, "products, etc. of the sporting goods and allied "trades connected with this association.

"If the lack of response heretofore and "lack of all the detailed answers and statistics "presently requested, is interpreted as giving a "premium to the few who would leave conditions "stand in the chaotic state they are in and that "any lack of response with all its detail, points "to a lack of concern and interest, we assure you "that this is not the case for the sporting goods "industry. Manufacturers, wholesalers, agents "and retailers alike, are looking for stability "within the trade.

"We are even asked for 'particular dealers' "as regards loss leader practices. We do not feel "that we can furnish any names. As far as our own "members are concerned, we take what action we can "as to trade ethics, etc. within the framework of "our charter and by-laws. We hardly feel disposed "to furnish names and certainly this may not be "done regarding those outside our own association."

Now, in regard to the questionnaire, I presume I do not need to read the questions; or would you care for me to do so?

THE CHAIRMAN: I think perhaps if you read the questions along with the answers it will relate one to the

other.

14 A. MR. WARDLE: "Specific instances of loss-leader-"ing, in particular articles, or types of "merchandise, or localities, and their duration;"

"Sporting goods of all types - all locations but "particularly larger centres - Duration is inter-"mittent to regular. Advertised and sold at "laid down cost and less."

"2. General loss-leadering practices, by "particular dealers, or in particular trades or "localities, and the frequency and duration "thereof;"

"Sporting goods Trade-All larger localities - "Continuous with some and intermittent with "others."

"3. By whom such specific instances or general "practices were carried on, e.g., by independent "merchants, chain stores, department stores, "supermarkets, wholesalers or jobbers;"

"Mostly retail independent merchants also a few "wholesalers."

"4(a) to 4(h), the only answer we have is that we do not know of any particular loss-leader period. We find it is with us all the time.

"The reputation and acceptance of the loss leader
"article among

" (i) Dealers in that article,"

We think it depends on the product. As far as the consuming public is concerned: unknown, we do not know what the reputation or acceptance of the loss-leader would be with the consuming public.

"What constitutes a 'loss leader' and what types of
"merchandise are commonly used as such?"

"Material sold at laid down cost or less - Brand
"name of products of the sporting goods, athletic
"and recreational trade."

"2. The percentage of total sales made on a loss
"leader basis with respect to:

"(a) A particular article,

"(b) Articles of the same class or in the
"same field of trade, e.g., groceries, hardware
"goods, electrical appliances, drug store products;"

"Unknown."

"3. The general effects of loss-leadering practices
"upon

"(a) Merchandising generally, and upon
"manufacturers, wholesalers and retailers,"

"The general effect of loss leader practice on
"merchandising generally creates lack of public
"confidence and trust in the very great majority of
"ethical business organizations and individuals.
"Manufacturers have their quality brands discounted
"in the public view and many years' effort and
"promotion is sacrificed to unfair and unethical
"practices. Wholesalers lose accounts because of
"direct manufacturer to dealer sales, often made
"on the wholesale level to enable some semblance
"of competition with the loss leader.

"Retailers lose regular customers and their
"goodwill and the situation is now getting serious
"with the smaller operator who is losing sales and
"reasonable profits on his branded and staple lines."

"3. The general effects of loss-leadering practices
"upon
"(b) Consumers;"

"Human nature, being what it is, the consumer sees
"only the low price tag and buys, unmindful of the
"principle of reasonable profits to maintain our
"free enterprise economy."

"4. The effect of changes in the level of business
"activity upon the use of loss leaders;"

"The level of business activity will have no bearing
"upon the use of loss leaders. However the long

"range effect of loss leaders will and is, re-
"ducing competition and narrowing the number of
"outlets. This will tend to stop loss leadering
"but only after the small ethical business man
"has been squeezed out of business by this
"unhealthy practice."

"5. The need or otherwise for remedies, and,
"if need appears to exist, what remedies might
"be employed, with their probable effect."

"Remedies are needed.

"First - Return to a price maintenance policy or

14B. "a fair trade policy."

I am not defining a fair trade policy, but some sort of policy which would allow us all to meet any fair competition.

"Second - Establishment by registration of various
"groups such as manufacturers, wholesalers, re-
"tailers, etc. to enable proper price policy at
"the various levels."

That is tied in by way of illustration with my third remedy.

"Third - Customs control of import valuations to
"determine that 'Fair market value under com-
"petitive and comparable conditions of sale' are

"met. This to control imports and incidentally to
"collect duty at the proper price level. (Note-
"Some retailers buy direct from foreign manufacturers
"under assumption of being wholesalers or jobbers
"and secure such wholesalers price level enabling
"him to undersell other retail competitors)"

I do not think there is any track kept of that. Actually the fair market value, the certificate supplied on the customs invoice form, would be incorrect; but the present set-up would not enable the Customs Department to know that.

"(Note - We interpret a wholesaler as one with a
"minimum of 75% of his accounts properly classified
"as retail resale outlets.)

"One of our large national manufacturers
"recently said that the retail market is degenerating
"into a panicky disorganized free-for-all and that
"some retailers are actually giving away their normal
"profits to outdo competition. We presume this
"refers to the very few who initiate such a policy.
"By far the very great majority are only doing the
"same thing to meet this unfair practice and to
"prolong the time when they will be forced out of
"business."

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5 One of the big department stores told us they have no justification, no intention, no desire to sell anything at cost or anything less than they require on their regular

mark-up, but that they have to do it to meet competition.

"This is the theme of the sporting goods trade and "if steps are not taken to stop this and confine "competition to salesmanship, honest advertising, "presentation of product, premises, etc. we shall "in time, eliminate the honest, fair and ethical "trader of the smaller type. This is the type of "business endeavour we should protect and encourage. "They are the backbone of our free distributive "system and a great many of our well known and "larger operators, particularly retailers, . . . "

Again, I am thinking of Eaton's.

". . . had their start under the protection of "sound and ethical trading regulations which are "now gradually disappearing and consequently "developing a retail market which was recently "described as a 'Commercial Donnybrook'.

"Respectfully submitted."

THE CHAIRMAN: Do you wish to add anything, Mr. Wardle, to what is contained in the brief at this time?

MR. WARDLE: I thought I might just submit this letter from the other Association to which reference has been made:

"I have been instructed, by our executive, "to ask you to speak on our behalf, at the "Restrictive Trade Practices Commission Hearing.

"We feel that Loss Leaders, strongly

"advertised by the larger business houses, can,
"and will undermine the small business people,
"forcing them into the Loss Leader Racket, and
"finally into bankruptcy.

"We also feel, that some type of Price
"legislation should be enacted, to allow all types
"of business to work on a reasonable Mark Up, so
"that we may be able to compete with all others,
"and continue to render a necessary service to our
"community.

"Toronto Bicycle & Sports Dealers are not
"looking for a protective wall, nor a crutch to
"lean upon, but rather an open, clean marketing
"atmosphere in which to compete."

That is from the Toronto and District Bicycle and Sports Dealers' Association.

If there are any questions, sir, we should be glad to answer them or to elaborate on any of the points made in the brief.

THE CHAIRMAN: There may be some questions but I just want to be sure that whatever you or other members of the delegation wish to say you have an opportunity to say before questions are asked. Has any member of the delegation anything further to add?

MR. JARDINE: As the President of the Association, and as a retailer vitally concerned - I have been in the business personally for 20 to 25 years, and I have known a lot of the people in the business for that length of time - I would like to make a few remarks.

During the years I have been in business I have

never seen conditions as desperate as they are at the moment. There is no way to turn. Every time you read the paper you have to change your prices. You set a price on your merchandise fairly and the next day prices change. We are not changing them because we want to lose money but at the present time we are losing money, and a lot of people like us are losing money. It is necessary to employ 14 or 15 people to run your business and you have to meet that pay-roll. We are trying to maintain some reputation with our customers. The people who are creating this situation will be going out of business. This is not a new situation. I can remember a time before the war when we had a lot of people cutting prices and they eventually went out of business. Each year some one new comes along and creates this problem.
At the present time we have no "gold standard" or any one to go to to tell us what we should do about these men, they are troubling the whole industry. The manufacturer says, "We cannot do anything because the government will not let us". We must meet that competitive price and we have no way to turn.

I can think of one instance in relation to a softball being sold in Toronto and in Montreal. The best possible price at which this softball can be obtained is $20 a dozen. I understand from some of the hardware people who have not the same opportunities or buying power as others that it is costing them $24 a dozen. They are being sold to the retail trade at $20.25. In other words, they are making 25 cents on a dozen softballs. That is not good, sound business.

I read an article recently with respect to consumer saving. It is like my wife going down and reading the ads and saying she saved me $200 by what she bought. I do not think the millions they are supposed to have saved are actually saved.

We had a meeting at which the retailers were all in attendance. A gentleman told us why he was selling articles at such a low price, within seven or eight dollars of his cost, a large article costing hundreds of dollars. The government says I cannot sell it. He went on to outline what he did to offset the price at which he sold the article. He sold another article with it for $60 which, on normal mark-up, cost $20. He also sold a service set-up for $20 that cost him $12. He pointed out that he made $65 or $75, or $45 on the article. However, he did not outline that in the newspaper to the consumer, that he was making his normal profit; he was leading them to believe they were getting it at 25% off.

This is going on all the time with the unscrupulous competitor. There is nothing wrong with selling an article at a lower price, every one does that to maintain business; but to get traffic to their store and then work on the basis, "We must do whatever we can to make our profit" means the consumer is not saving any money. They are taking it away from the man who will give them the service at the same price but they give the impression that man will not.

Take fishing rods. They will get ahold of one well-known brand and advertise it for $4.95. When the

customer goes to the store they find they have not got any. We telephone the manufacturer to find out if the manufacturer has supplied any to them and we find that they have not. What has happened is that this man has got half a dozen in the United States or half a dozen from some other dealer. They take that out and damage our business with it, they spoil the price of that particular piece of merchandise. That is what is wrong with that type of merchandiser.

THE CHAIRMAN: Is it your contention the design is to injure the other man or to get customers into their store to improve their business?

MR. JARDINE: I think the intention is to improve their business, along with undermining the other man's business.

I am at Queen and Bathurst. In that area I think there are 27 people in the same business as I am. We have always had competition, we expect it. There are men in the business there who have been in business for 35, 40 years. Mr. Dodds I know has been in the business for 40 years. He has never seen conditions as they are to-day. They are attempting to force that man out of that particular line of business, and they are doing it successfully. Eventually the number of outlets will have decreased and they will put their prices up to obtain their normal mark-up.

We thought of the small fellow, but I do not think we would consider a man a small retailer who had $50,000 worth of capital. Yet, if any one of you gentlemen here wished to set your son up in business in the retail sporting

16 goods or electric appliance business to-day it would require quite a large amount of capital. At one time you could set up a store on $5,000 or $10,000 and, with imagination and good sound business principles, develop a business and go on to make it a good business. To-day it is necessary to have at least $30,000 - that is the minimum - to get into this business. You have to buy everything in lots of 12 or grosses to get the prices to be close to your competitor. We have a man buying in carload lots selling against a man buying one. The man who buys one, to take an illustration, pays $234.67; and the large man is selling that same article at $235. The man in a small business who cannot buy more than one, he would have one there and get delivery the next day and get service on it; that man cannot operate to-day, we are forcing him out of business.

I was in the services and I am a Canadian. I believe in Canada very much. I have heard what a wonderful country it is, and I think it is a wonderful country. I think we have the best country in the world. It seems a shame to me that we should allow this to happen, to a country like ours. We are growing, we need the little fellow as much as the big fellow. The little fellow is just as important as the big fellow because as the country grows the little fellow will become the big fellow. We must protect the things we believe in. I saved a few thousand dollars while I was in the services and I put it into this business. It is everything I have. It is everything lots of the small fellows have. Some of us think we are large but we could go out of business to-

morrow. We cannot buy at the same level as these other men so we are at an unfair competitive position. If we could buy at their level we could sell at their level. In large department stores there must be some consideration for advertising and overhead costs, but not the 10 and 12 and 14% which allows that man to sell at your cost.

I had a man call me to-day to ask about a fishing reel which sells at $28.95. It is a seasonal product and it is necessary to carry a stock of $4,000 in the hope of selling them during a two month period. This man is a small operator and this fishing reel - a Mitchel reel - costs him $19.40. He has to buy it, put it in his store, show it and tie his money up for a possible chance of selling it within that two month period. The man across the road from him is showing that very item at $23. You cannot stock merchandise for a year which you only sell on a seasonal basis with that kind of mark-up. If you do you will go out of business. There is no other answer for it. That is happening in many, many lines.

I, as a merchant, got into the sporting goods business heavily. We are meeting prices that I know are suicide and as sure as I am here I know that if we continue to meet prices on the basis on which we are forced to meet them we will be out of business. I do not think the government wants that. They are here to protect our interest as well as the interest of the big fellows.

We have heard of some one buying a carload of refrigerators and giving a certified cheque for $220,000. That is a purchase of one particular model. As long as I

have been in the business I have never known such a situation to exist until to-day. Even at the roughest times Eaton's, Simpsons and Mayfair, the people who were the troublesome people -- there was no such competition as that. That is a combine of people with money behind them. What is the purpose? The purpose, as it appears to me, is simply to put us out of business.

MR. FAVREAU: To a certain extent the trouble with this situation seems not to be connected with the loss leading problem. If a small retailer buys up one article at $150 and sells it at $155 he only makes $5 profit. The other one, who can buy 25 at $125 can sell them at $145 and still make $20 profit on each. Is it a matter of discrimination coming from the manufacturer, rather than loss leading?

MR. JARDINE: That is my point, I feel that situation should not exist. Mind you, this price situation has only arisen since the price maintenance law was repealed. There always was a 2 or 3% discount for the large operator. I have learned more about prices
7 than I ever knew. I must know the price of carload lots and I am amazed at the prices I could have bought at. We were never forced to sell at the cost of our merchandise, the manufacturer was able to say to these large buyers, "We will sell this to you. We know you have a heavier cost of operation, advertising, delivery and salesmen, so we will give you some concession on that". That was done because they had an expensiv operation.

THE CHAIRMAN: Was that the reason the manufacture

sold large quantities at a lower price; or was it not cheaper for the manufacturer to handle one order rather than handle 50 orders?

MR. JARDINE: That is the story, that it costs less money, and I think they are right, to some degree.

THE CHAIRMAN: I always thought the manufacturer was concerned more about his profits in fixing a price he could sell at rather than whether his purchaser had a high overhead.

MR. JARDINE: I do not believe the manufacturer offered him a profit. As far as the manufacturer's cost, it is only when you find a situation where the merchandise is not being sold that that situation develops, as naturally you get a surplus; but merchandise you must dispose of, in the old days they came along with an article and offered it to you at 10 and 10 below list, "Here is the price". They wanted to maintain their dealerships and they did not go to one person; they cut their price to every one and gave every one the same opportunity. To-day it is not a question of a manufacturer setting prices; they have a certain inventory on hand and the first thing that happens is that one of the large operators comes along and says, "We will give you so many dollars". You have a direct contact from the top man down through the manager to the sales manager. He says, "We have to get rid of this stuff. We have an offer of $220,000. Let's dump it." What happens? The repeal of the price maintenance law has allowed that type of operation to become prevalent. If we had some kind of law where we would be protected so that that

could not happen, we would be operating on the same basis as we did before.

THE CHAIRMAN: I was puzzled by one of your arguments earlier, your statements that the large operator - by which you mean I assume the department stores and, possibly, the chain stores - have higher overhead and, therefore, have to have a higher mark-up and that justifies a lower price from the manufacturer. My understanding of the development of department stores and chain stores was that they were successful because they were able to operate on a smaller mark-up which enabled them to sell at a lower price and get more purchasers.

MR. JARDINE: When I speak of the larger men I am not speaking of fair competition, Eaton's, Simpson's, a great number of people in business for a long time. They have a sale - of course, they have a sale - and they reduce their prices by 10 or 12% and make us sit up and take notice. That sort of competition we do not want to eliminate. It is important to the customer. It makes the customer aware the merchandise is available. But, where they operate on a five or six dollar profit set-up they are losing money on every article they sell. You cannot operate a business that way. In the case of the man who sold this article at \$235, it cost him \$207, which means he is operating on a 10% profit. It is extremely difficult for any organization to operate on 10%. You cannot operate on 10%. They are doing that to ruin us, to stop competition completely. I do not know whether there is anything in the law which says you cannot have that

kind of competition. Section 498 of the Criminal Code, where they cannot sell detrimentally to the public; that is exactly what is happening.

THE CHAIRMAN: This does not say that they cannot sell where it will be detrimental.

MR. JARDINE: Well, I am not a lawyer, I am a plain business man. I have come here with the feeling this commission is here to help us if it is possible. I do not think you fellows are coming here to prove us right. If you do prove it, it will be with proper justification and arguments. I think you are willing to listen to us.

THE CHAIRMAN: Up to the present we have no position as to who is right.

MR. JARDINE: That is why we came here to-day.

THE CHAIRMAN: We are trying to get the facts out of which we hope to arrive at the right conclusion.

18 MR. JARDINE: That is why I am here.

MR. WARDLE: Mr. Chairman, I would like to mention the case of a fishing tackle box, that seems like a small item.

THE CHAIRMAN: We get them smaller than that sometimes.

MR. WARDLE: A new brand of tackle box came on the market recently and the very best wholesale price in the United States is $1.03. That is interpreted as $1.37 laid down in the City of Toronto. It was brought in by a retailer - strictly a retailer - and sold for 99 cents. That completely disrupted the entire market. He paid $1.37. He had to add his profit, if he wanted

anything, that was his actual purchase price.

THE CHAIRMAN: He was losing 38 cents plus his overhead?

MR. WARDLE: Yes, plus his overhead. This importation thing might be looked into. He brought it in as a wholesaler and he is not a wholesaler any more than I am, and I am not even in the business.

THE CHAIRMAN: If the facts are that it cost him $1.37 to bring it in and he sold it at 99 cents, I hope he did not sell too many of them.

MR. JARDINE: They do not sell too many, they have a limited supply. They buy from a source that is not normal.

THE CHAIRMAN: Are they able to buy at a low price?

MR. JARDINE: If I wanted to, and these are the things that are developing, I will try any trick which is necessary. We can buy many of the articles in the United States which we normally obtain through legitimate jobbers here in Canada. I can go to some of the jobbers in the United States who are not connected with the manufacturer and say, "I will buy one carload of a certain type of tackle box. I will pay you 5% above your costs. All you have to do is to pay for them and I will give you a cheque now." In other words, I can buy them for less than the legitimate distributor can sell them for up here - that is, normal mark-up. I take that article and decide to sell it at a cut price, which I am entitled to at the present time. I can undersell that article and undermine the people who have that particular item

and sell it below their cost and they are left because, as we pointed out in our brief, there is only a certain number of anything sold until the saturation point is reached.

THE CHAIRMAN: I will agree with you but it is hard to determine where the saturation point is. Som articles are almost in the luxury class and only peopl with a fairly good income can buy them; but if the price is greatly reduced more and more people buy them so that the saturation point tends to extend if the price is lowered.

MR. JARDINE: That is another thing. At the present time people are buying more and more appliances.

I had a gentleman come in the other day, a friend of mine for many years. He noticed a refrigerator on sale - we meet the advertised price. We had a price marked on it. I said, "What is the price?" He said, "$499 but selling at $199." He said, "I don't need a refrigerator, I have had one for five years, but I think I will take it." He bought it and gave me $29 down and will pay for it in two years. This man is taken out for three or four years. They are buying things through these different outlets. We have a saturation point in washing machines at the present time in Toronto. I think the saturation point is 87% at the moment. It is not going to improve the situation by becoming obsolete. We have the case of a washin machine, a man using it for 11 years. He made a deal with a dealer for this machine for a $120 machine. He made the deal - give him $60. He paid $60 and his old

machine for the new washing machine. In other words, for $5 a year he had used his old machine for 12 years. Because of the deals to-day that man bought a machine and used it for 12 years and it only cost him $5 a year. No one can stay in business in those circumstances.

MR. WARDLE: Mr. Chairman, you spoke about the 98 cent example I gave. One of the big troubles there is that regardless of how many he sells - I may want that type of tackle box and was going to buy one from his store - because I am tied up in this Association he will give me some discount. Being tied up in the Association I should walk up to Mr. Jardine and say, "What about it?"; but I cannot buy it off him, there is a fellow selling it at 99 cents, less than his cost. He will take the attitude he did at Christmas time, he will say, "I will not let any man beat me and take my friends away from me. If that is the price you can buy it at, that is the price I will sell it at." So, we are both losing money.

THE CHAIRMAN: The buyer is not losing money.

MR. WARDLE: No.

THE CHAIRMAN: I take it your idea of the loss-leader is, on an individual merchant basis, that that sells below the average mark-up for that merchant, below the average cost of doing business over the laid down cost; it is the average cost of that merchant rather than the average cost throughout the industry?

MR. WARDLE: I would think for that merchant.

MR. JARDINE: You would have to establish throughout the industry.

THE CHAIRMAN: I rather thought from your brief you meant the average cost of the merchant himself. Some merchants may operate on substantially less overhead than others. You suggested the bigger operator had a higher overhead.

MR. JARDINE: I think it is in too much of a tangle. As far as overhead is concerned, we are taking about 20%, the normal business practice. The retailer's practice is to establish a mark-up -- or, rather, mark-down, a discount set-up on the basis of what he sells his merchandise at. To determine the cost of one man, we could not say that man must sell it at that price. We suggest some type of guaranteed return. When I say "guaranteed", you cannot guarantee anything in business, it is a gamble; but some way of saying this is what reasonably may be expected. Six months from now it is an obsolete line and you can do anything.

THE CHAIRMAN: You do not object to distress selling?

MR. JARDINE: No, that is a vital thing in business if the merchandise is sitting on a man's hand he must sell it. What I would suggest is some arrangement whereby there would be a certain discount for the man who was able to buy at $120, another for the one who could buy at $125 and a third for the man who could buy at $135. Then, this merchandise should not be sold for less than 10% or 20% mark-up on the $135 price in order to give some protection to the one man.

MR. FAVREAU: 10% over the man who pays the

highest?

MR. JARDINE: That would be established as the lowest selling price. The man who buys it at $120 must sell it at $135, plus 10%. I do not think we could guarantee what our profits will be, that was never in the price maintenance law before.

THE CHAIRMAN: The man with the large volume who expects the largest discount from the manufacturer would not only sell more goods, he would make more money on each article sold.

MR. JARDINE: Yes, but he has heavier cost of operation.

THE CHAIRMAN: That does not disturb you at all?

MR. JARDINE: No. He would have some percentage to take care of that.

THE CHAIRMAN: You do not agree that advertising pays for itself?

MR. JARDINE: It does pay for itself if you get sufficient mark-up; but in these cases I do not say that it pays for itself.

THE CHAIRMAN: You are charging it to the customer by the higher mark-up.

MR. JARDINE: That is where it pays for itself.

THE CHAIRMAN: I always thought advertising paid for itself by increasing your volume to such an extent that your costs were absorbed in your overhead.

MR. JARDINE: Let me perhaps illustrate my own case: 17 years ago when I first started with this particular business we were doing $32,000 worth of business a year and there were three people in the

business. To-day we are doing ten or twenty times the business but, percentagewise, our costs have gone up more than they were at the $32,000 level. We have to sell many times more merchandise to pay the cost of operation, of our staff, of advertising and the type of establishment we are operating. It is not always necessarily true that the higher you get the lower your costs, you go so high and then you have to expand from an operational standpoint, more trucks, more advertising, more everything, so your costs increase. You can only go on this 10% basis. I do not think they can operate for less than that, in spite of their costs. I am speaking of 10% gross.

THE CHAIRMAN: We are not differing on this, I see. If they have 10% gross profit and can operate on that, they are pretty good merchants.

MR. JARDINE: I do not say this is necessarily the price it should be sold at, but some basis of saying this is what must be. We can go to the manufacturer and say, "This man is selling below what you have decided is the fair mark-up". We have to have some standard. I do not say that is the normal mark-up but there must be some place where it can be stopped. I do not think a man who buys at $120 will be able to operate at 10% above $135.

I do not know whether you know it, sir, but there are certain business practices in the advertising of appliances. I cannot say that I can give you witnesses for this, because I have not any and I would not want to get any, but I know of cases where salesmen have told us they were charged $5 if they sold a particular item which

had been advertised at a greatly reduced price. "If you sell it it is $5."

THE CHAIRMAN: They reduce the commission?

MR. JARDINE: They do not reduce the commission, they take $5 from the salesman. It is nailed to the floor; it is not for sale. That exists in certain types of operators. What happens is that when you go into the store, you walk through the store, you see the merchandise; but nobody will show you what it is, and even if you get some one to look after you and you indicate to them that you would like to buy the article they will ask you to look at something else and the first thing you know you walk out in disgust if the other item is the only one you want.

MR. WICKWIRE: How prevalent is that situation, or similar situations?

MR. JARDINE: That condition exists very often; that does happen very often in some of the advertised items. We had a case of a stove which was being sold for $99.95. I phoned every possible supplier and the lowest price that stove had been sold at was a year ago at $137. The man was supposed to have had sixty. I asked the suppliers if they sold this man 60 or 100, and they said no.

MR. WICKWIRE: Did the salesman tell you whether or not the customer who came in to buy this article which was, as you say, nailed to the floor, in fact bought other merchandise?

MR. JARDINE: In this particular case he did, he bought another stove. This fellow went up to buy this

$99 stove and he bought it for $139; and, then, he came back and apologized to me.

MR. WICKWIRE: It happened to be a stove you are speaking of, and the customer purchased another stove?

Mr. JARDINE: Yes, it was a stove. They were supposed to have had sixty but no supplier had sold them six within a year previous.

MR. WICKWIRE: The practice of the article being nailed to the floor and the salesman being fined $5 --

MR. JARDINE: I am not saying this is the particular item; I am not saying that in this particular case this man was fined $5.

MR. WICKWIRE: No, no. For the sake of expression so you and I will understand each other call that article a stove that was advertised.

MR. JARDINE: Oh, stove that was advertised.

MR. WICKWIRE: Was that a brand name stove?

MR. JARDINE: Yes.

MR. WICKWIRE: And a customer comes in and he is told they have not any left or they are sold out and he buys another stove?

MR. JARDINE: Yes.

MR. WICKWIRE: Was the stove he bought a brand name?

MR. JARDINE: Not in this case, it was a smaller company.

MR. WICKWIRE: You say that is prevalent?

MR. JARDINE: This particular stove was advertised last Wednesday.

Is it prevalent?

MR. WICKWIRE: Yes.

MR. JARDINE: It is something that has been with us for some time. It was with the merchandise that was not brand named.

MR. WICKWIRE: What do you say about the distributor or dealer who advertises a stove and when you go in there are three or four hundred at the price as advertised?

MR. JARDINE: In a case like that I believe the man is legitimate. I feel that that is one instance where we could say because this man buys 400 he cannot sell them below what I can. The man must sell them. That is competition; that is good competition. I do not say we should not have competition, competition is part of the business, it gets people to go from store to store and it develops a demand.

MR. WICKWIRE: With that type of transaction you say the buyer is not deceived and nobody is deceived, it is good competition?

MR. JARDINE: That is good competition. If the man is in business and that is the price, that is all, or if he mentions in his ad it is not complete or service extra; it is the hidden things that are not fair.

MR. WICKWIRE: You suggested a floor price, I suppose that would be?

MR. JARDINE: I suppose that would be it.

MR. WICKWIRE: To give the industry some type of protection against the first type of person we are talking about?

MR. JARDINE: Exactly.

MR. WICKWIRE: In California I believe, under

their Fair Trade Act, they did establish a floor of 6%. You suggested 10%?

MR. JARDINE: We have not as much opportunity for volume selling in this country as in the United States and I think, therefore, we must get a little more than 6%.

MR. WICKWIRE: You mentioned, Mr. Jardine, that every one must do a little loss-leadering to stay in business. When you refer to that do you mean selling distress articles or unseasonal articles?

MR. JARDINE: That ~~is~~ my definition of loss-leadering. It will hurt some but it will not hurt the whole industry. When some one comes out with the express intention, with a new line on the market, and they come out with the intention of taking all the market for that --

MR. WICKWIRE: It might not be, in that instance, loss-leadering; it might be leadering but not loss-leadering in your interpretation of it?

MR. JARDINE: In my interpretation.

MR. WICKWIRE: You suggested in the particular area in which you operate there are 27 in your type of business?

MR. JARDINE: Yes.

MR. WICKWIRE: How large an area would that cover?

MR. JARDINE: From Spadina to Bathurst Street. It's three city blocks.

MR. WICKWIRE: Well, now, how long have there been 27 in your particular line of business?

MR. JARDINE: There have been 20 of them there

since I have been in business. We have had good competition mainly, some not quite as scrupulous; but we could go to the manufacturer and say, "This man is selling below cost". They would go to him, as a gentleman, and suggest, "There are 20 other men who have to stay in business, let's get together."

MR. WICKWIRE: I am trying to find out if there has been quite an increase in the number of people in that particular business in the area you have defined over the past few years?

MR. JARDINE: No, there is no particular increase. One goes out and another comes in.

MR. WICKWIRE: Has there been an increase, generally, in the sporting goods business?

MR. JARDINE: I would say there are more sporting goods -- I am speaking of these 27 units in this particular street. I am not speaking of the sporting goods industry; that is in connection with the appliances.

MR. WICKWIRE: I understood you to be speaking of sporting goods and appliances?

MR. JARDINE: It is chiefly appliances, the 27.

MR. WICKWIRE: The 27 you speak of, are they all dealing in sporting goods and appliances?

MR. JARDINE: No, in appliances.

THE CHAIRMAN: When you say three city blocks, do you mean on one street?

MR. JARDINE: Yes.

THE CHAIRMAN: That sounds like a heavy concentration?

MR. JARDINE: Very much so. Five of them are within a few stores of each other.

The average dealer or merchant is not afraid of competition; but they are afraid of unscrupulous competition. It is like a city without a policeman, no one to turn to.

MR. WICKWIRE: It has been suggested that there has been a large increase in the number of (a) appliance outlets and (b) sporting goods outlets from shortly after the war up to the present time?

MR. JARDINE: There was a great influx of people coming into the business, but I think the majority of them have gone out. That was a normal thing. That was going to happen. I do not think this particularly affected them. There are a number now who have gone through the first failure period. But the people who had a chance of staying in the business are now being forced out of business because of these practices.

MR. WICKWIRE: Can you tell me, Mr. Jardine, why in your opinion they should particularly pick the appliance business and/or the sporting goods business to get this big increase of outlets?

MR. JARDINE: Well, I believe my interpretation: We went through a very dry period from 1939 to 1944, there was no manufacturing particularly in our business, in the sporting goods and in the appliance business. They were all doing war work. So that the people who managed to stay through the war - I went in the service and my wife and my partner kept the business going - they did not have anything to sell. There was a terrific demand

built up because of lack of merchandise because of the war effort.

MR. WICKWIRE: In other words, there was, at the time these people were going into this business, a seller's market?

MR. JARDINE: It was a seller's market, and these people are the ones who are walking out.

MR. WICKWIRE: That condition changed, did it not, Mr. Jardine?

MR. JARDINE: Yes, there was a gradual change two or three years ago. There were a number of people who had no right to be in the business, normal failures, new people in it who did not know how to sell; when it came to a buyer's market they could not stand up under it.

MR. WICKWIRE: You think there were too many outlets in that period?

MR. JARDINE: Oh, I would hesitate to say that. I think, with fair competition, there is room for many. I am not here to say there are not enough. I think with good competition the more the merrier, as long as the man is fair. If you get a fair break I do not think you can restrict the number of outlets; I do not think there are too many.

MR. WICKWIRE: Would you agree with me, in this industry there is a consumer's market?

MR. JARDINE: Oh, yes, I agree with you on that. Not only in this industry but most industries to-day. In the car industry the same situation is developing. It is becoming very desperate there.

MR. WICKWIRE: In a consumer's market do not you think the individual should have some choice about what he is going to pay for any article?

MR. JARDINE: I am not very much in favour of that. I went through 1932 to 1939 where it was a very definite consumer market and we managed. The public there, I am sure, never over-paid, they did not have the money to over-pay, and the people in business, they managed to stay through it in a consumer's market where the buyer was the boss; but they still had price maintenance where we could go to somebody and say, "This is as low as you can go". Some of them did not. Nobody was prosecuted for it.

MR. WICKWIRE: You gave the Commission an illustration of a chap who had no intention of buying a refrigerator because he had one.

MR. JARDINE: That is right.

MR. WICKWIRE: He saw a nationally known brand greatly reduced so he bought it, making a small down payment and paying, I think you said, $5 a month.

MR. JARDINE: $30 down and two years to pay.

MR. WICKWIRE: Do you consider he got some advantage?

MR. JARDINE: My point there, sir, was that that man was taken out of the market three years from now. That is one example of my own.

MR. WICKWIRE: That man had a refrigerator?

MR. JARDINE: That is right.

MR. WICKWIRE: He got a newer model?

MR. JARDINE: That is right.

MR. WICKWIRE: You say he was taken out of the market?

MR. JARDINE: The machine was only used for five years but its normal life expectancy is eight to ten years, at which time we would expect to have a return sale. That man having bought a new machine now will not be buying another one in three or four years' time when we might normally expect him to be buying a new machine.

MR. WICKWIRE: He already has a machine some years old?

MR. JARDINE: Yes.

MR. WICKWIRE: What has happened to that one?

MR. JARDINE: There is nothing the matter with it, it is still a very good machine.

MR. WICKWIRE: Why is not the same individual who bought the machine at a greatly reduced price coming back in three or four years and buying a new model? I cannot follow your argument.

MR. JARDINE: If the cut price condition still exists, perhaps that man will; but I do not think we can count on a boom market all the time. The time will come when they will not buy for the sake of buying.

MR. WICKWIRE: In another case, Mr. Jardine, what about the man who has an ice-box and has always wanted a refrigerator but could never pay the $325, whatever it is, and he now can. There must be instances of that.

MR. JARDINE: That is the man we are looking for and that is the man the dealer who is selling at reduced prices is looking for. I believe in reduced prices; I believe the consumer should get the best possible price

available; but I do not think it should be at the expense of the legitimate dealer who has an interest in the community. I am a consumer myself, I buy at the lowest possible price; that is the very thing I am saying, these people are entitled to the lowest price, but are they entitled to the lowest price at the expense of putting six or seven other people out of business?

MR. WICKWIRE: On that point I suggest to you that if there is intent which can be proved -- I admit it is very difficult to prove intent -- but if the purpose of selling it at a very, very reduced price is to put your next door neighbour out of business, that is contrary to the existing law.

MR. JARDINE: We know that and we know it is happening; but how can we prove it? Where a man is selling one article -- and I am representing sporting goods, but it happens that I know something about the electric appliance business -- say, an electric kettle for $6.95. The best possible price it can be bought for is $8.20. That man is setting out with the intention of putting his neighbour out of business because his neighbour might not be able to afford to sell it at that price.

MR. WICKWIRE: Is that the intention, or are you assuming that is the intention?

MR. JARDINE: Well, it would be very difficult for me to read his intentions and to prove them. It is impossible for me to go to him and say, "You intend to put me out of business." That would not hold water. How can I prove he intends to put me out of business?

MR. WICKWIRE: I suppose if you had a chap next door to you who was buying in very large quantities and still selling at a profit --

MR. JARDINE: Yes.

MR. WICKWIRE: -- to himself on each article at greatly reduced prices to each individual customer that the effect might still be the same, it might have a bad effect on the people selling a similar article in the same neighbourhood. You say that is legitimate?

MR. JARDINE: I do not get your point, sir?

MR. WICKWIRE: Well, if a person by reason of volume of purchases --

MR. JARDINE: Yes?

Mr. WICKWIRE: -- and quantity discounts on his own purchases, is able to sell the same article at a lower price than the usual mark-up, it is going to affect his competitors in the immediate area.

Mr. JARDINE: Well, yes, that is true; because, after all, we cannot sell what my neighbour can sell at. We are both fishing in the same pond but we are both using different bait.

MR. WICKWIRE: The effect might be the same as the person who is actually selling, though, at less than his laid-down cost?

MR. JARDINE: No, the effect would not be the same. If there were some protection then we are forced to fish with the same bait and there is some semblance of order. I do not see how you can take the hazards out of business.

MR. WICKWIRE: Your brief has mentioned, for instance:

"This is the theme of the sporting goods "trade and if steps are not taken to stop this "and confine competition to salesmanship, honest "advertising, presentation of product, premises, "etc. we shall in time, eliminate the honest, "fair and ethical trader of the smaller type."

Now, does not salesmanship, advertising, presentation of product and the type of premises add to the cost to the consumer?

MR. JARDINE: Yes, I would say it does.

MR. WICKWIRE: Would not, in your opinion, the consumer be entitled to say whether he is willing to pay for that additional cost?

MR. JARDINE: Well, let me put it this way: The man who is maintaining a proper establishment the only way this other man who is not keeping a proper establishment and providing proper salesmanship can obtain business is by the type of advertising which is not always correct. That man, if he deals fairly, cannot get the customers to his store. He has to meet the costs of operating a business, the same as myself, with a proper looking establishment or by getting customers by excessive advertising. In proportion the advertising done by some is not fair to the article.

MR. WICKWIRE: I gather from your presentation of this problem there are some large scale dealers who are doing business fairly.

MR. JARDINE: Of course, of course there are; and I admire them. Some who are very smart operators, they are able to sell at prices I am not able to. I am not

saying they can, but that I cannot. I do no condemn them, I look over their market and try to copy it. I think the man who is ethical and willing to do business on a straight business basis, definitely he is all right. If you phone him up about an article he will stand behind his price. But these others, it is like having a gun without ammunition.

MR. WICKWIRE: I do not think you have told us the general functions of your organization.

MR. WARDLE: You mean, the Association?

MR. WICKWIRE: Yes, the Canadian Sporting Goods and Cycle Association.

MR. WARDLE: To promote the interest of our members and take in the several allied lines that cannot be avoided, look after the general interest. We try to check our members up if we run into cases that appear offensive. Complaints come in to the Association offices and within the framework of the charter we have opportunity to investigate them. We have tried to stop some of our members - we have several members who we believe stand condemned in this loss-leadering policy.

MR. WICKWIRE: Your Association does not enable retailers to buy at better prices?

MR. JARDINE: No, that, again, is a very difficult problem. Certain ones would have to get a better discount because they are bigger operators.

MR. WARDLE: Going back to the question you were asking. The answer might be: This leeway you speak about, the fellow who is buying in large quantities, he obviously gets a better price than John Smith, who is

buying in smaller quantities, and he can, therefore, sell for less; but there will not be that much difference. He might be satisfied with a 10 or 15% profit because of his volume. That lets the little fellow get in, who should have 20% profit.

MR. WICKWIRE: Your Association does not object to that?

MR. WARDLE: No. That is competition you have to expect to meet; but when a fellow sells for less than your cost you have to take money out of your pocket to sell that product, and that cannot last long.

MR. FAVREAU: Your theory is that he should not be entitled to sell it for less than you pay for it?

MR. WARDLE: Not less than the smallest store buys it at. I do not think you can run into a situation where that exists. If John Smith has two or three employees, I think he will buy at a price which is competitive with Eaton's and Simpson's and if they put a sale on he can still sell at that sale price. But, if they put a sale on for less than their costs -- they seem to want a bigger mark-up than the small store, just why -- I understand they have some rather heavy mark-ups.

MR. TYAS: I would like to emphasize from the manufacturer-distributor's point of view it is practically impossible to assess the cost at which people will buy because there all sorts of holes and corners for buying. If there could be some method of control, if you like to call it that, over the net price, as it was in the days before price maintenance was removed, giving a certain amount of leeway to the manufacturer. For example, if

we have a branded item which is very popular and some one buys it in quantity and makes it a football and kicks it around we could go to them and say, "We don't like that, it is upsetting to the other people in the trade and we don't think you ought to do this because there won't be any more supply if you continue." So, you could settle a situation of that kind if it happened to be somebody who was unscrupulous. Nowadays you cannot do that. He says, "That's too bad". We can't do anything about it. That is where I feel some method of relief could be given to the retailer, the wholesaler and even the manufacturer. The manufacturer is frequently criticized for something over which he has absolutely no control. So is the distributor, who is generally criticized by the retailer who feels the pinch.

Good competition, I do not think ever hurt anybody and I think we all look forward to it and expect it. Prior to the time of the removal of price maintenance legislation there was price-cutting, there has always been price-cutting, special sales; but it never ran away wild as it has done to-day. These unscrupulous type of people know they have no check-rein at all, they can do what they like. They can practically throw things at you and you cannot do a thing about it.

MR. WICKWIRE: I find it difficult to understand, and perhaps you can indicate to me just how the situation is to be corrected, if this sort of thing you have been talking about is so very prevalent, selling actual articles at less than cost - that is, laid down cost -

how can they stay in business?

MR. TYAS: I do not think it very often happens that articles are sold at less than actual laid down cost. It can happen occasionally and it can happen where a certain article may be a discontinued line and can be bought at a lower price; but, generally speaking, I do not think there is so much of that selling at less than cost. They can be sold at less than the normal mark-up, that can happen. If it costs a man 20% to operate and he puts on a special at 15%, he is actually losing five cents; but over the whole picture he does not look at that picture and say, "I am losing five cents on that item".

We had a meeting discussing this before coming to the meeting, and a certain jobber said to me, "I mark up 33-1/3%; it costs me 22½% to operate." He said, "Now, if I give 33-1/3 and 10% discount and pay my salesmen commission I am losing business." I said, "How do you stay in business?" But any instances they do operate on that principle they do not make much but on the over-all picture they take that into consideration.

MR. WICKWIRE: Is not it so, Mr. Tyas, -- I think you have used the figure of 20% as being the average cost of doing business?

MR. TYAS: I think that is generally considered throughout the industry.

MR. WARDLE: We would not want to guarantee it, that is a hypothetical figure.

MR. WICKWIRE: We will say 20%. Do you object to

the dealer whose cost is below the average -- say it is only 12 or 13% -- passing on some of that saving to the customer in the form of reduction in price?

MR. WARDLE: If his overhead was 12 or 13 instead of that 20%?

MR. WICKWIRE: Yes. The average is 20.

MR. TYAS: I do not think you can object to it. If some one has a tumbledown shack away out on Dundas Street it does not cost him much and if one wants to go and buy an article at 10% or 15% less than Harry B. Kennedy, say, on King Street, you have not much argument about that. If they like a nice store and service, that is the thing they pay for. As I said, we always do that sort of thing. That always obtained. That always will obtain. But, the point is if somebody in the tumbledown shack, or in a large emporium is continually kicking an article around at an extremely low price -- for example, in the sporting goods industry the great proportion of the goods are distributed through jobbers. It is seasonal. They service a great many small dealers throughout the country and in the city. When some large dealer takes an article and cuts the price to an extremely low point, he may sell quite a number but all these jobbers, who in turn sell to the dealers, find they are being undersold and the dealers lose confidence in the jobbers and it gets back to the manufacturer. The jobber says, "We can't sell this article because it is sold at such and such a price the dealer cannot make his mark-up and we cannot make our mark-up." That ruins the sale of that particular

item. When we had the opportunity of going to those people and saying, "This is wrecking the whole business and, so, we cannot have this." There has to be a certain amount of leeway, we always expect that, but now we cannot do that, or if we do it they do not pay any attention. It opens the door for these people who want to be unscrupulous.

MR. WICKWIRE: There is a suggestion in the brief that the public loses confidence in the branded product. I take it you were talking about a branded product?

MR. TYAS: Yes.

MR. WICKWIRE: Now, you say it is the dealer and the dealer loses confidence in it because he is being undersold.

MR. TYAS: He loses confidence in the fact he can make any money out of selling it.

Mr. WICKWIRE: The purchaser has not lost confidence?

MR. TYAS: Only to this extent: take a drug item. Suppose you have bought tooth-paste or shaving-cream at 59 cents and you find it is 45 cents or 63 cents. You wonder why the price is chopped around. "Is it not as good as it used to be?" If you find all that deviation of price on a well-known item I feel you lose confidence in it, you say, "How can they sell at that price? It cannot be as good as it used to be." If you think about it in those terms.

MR. WICKWIRE: That is one reaction. The other reaction is, "Perhaps I paid too much for it last time."

MR. TYAS: Yes.

THE CHAIRMAN: There have been instances of prices which start at a high level and then rapidly fall to the advantage of everybody. Palmolive soap, when it first came on the market, was 25 cents a cake. At the end of the first war they began to put sales on at eight for a dollar, and then twelve for 98 cents. Eventually it got down to five or six cents a cake.

MR. JARDINE: Again, that was under fair competition.

THE CHAIRMAN: It was not done as a loss-leader.

MR. JARDINE: The same things with tires or cars. The competition is created. They talk about the consumer not getting the benefit of lower prices. Competition forces prices down. One man makes a football at $5 and another at $6. The one who makes his to sell at $6 looks at the other one and says, "I will make mine at $5." You do not need give-aways to get competition.

THE CHAIRMAN: I was merely mentioning that instance to show a reduction in price did not necessarily mean the consumer lost confidence in the quality of the article.

MR. TYAS: No, when the price comes down of its own accord, that is all right; but when the price is up one day and down the next and up the following day, that contributes to loss in confidence.

MR. WICKWIRE: I have one more question, and perhaps, Mr. Wardle, you can answer it if you would, on page 4 in your brief in the suggested remedies you have said:

"Second - Establishment by registration of various "groups such as manufacturers, wholesalers, "retailers, etc. to enable to proper price policy "at the various levels."

Will you be a little more explicit on that? What is the function of registration, is the registrar to exercise control?

MR. WARDLE: I presume some department of the government; I don't know. I am just pulling an idea out of the air there for somebody else to worry about. What we have in mind there is the unprincipled person -- this applies largely to importations but it could be domestic, too -- who says he is a jobber or wholesaler, and he is not a jobber or wholesaler at all. He is selling to two or three industrial accounts and chooses to call himself a jobber and wholesaler. He is 99% retailer and he is enabled to buy his merchandise at much less than another retailer who has gone through the proper channels.

MR. WICKWIRE: How much control do you want the government to have?

MR. TYAS: May I answer that? It arose out of a suggestion I made a couple of years ago. A lot of sporting goods are distributed through wholesalers. Now, we decided at the meeting at which the question came up what constituted a wholesaler. One of the wholesalers said that any one who could argue a manufacturer into lower prices should perhaps try to do so. My suggestion was that each wholesaler who actually had to buy goods in quantity for distribution to the retail trade would be

licensed by either a board of our Association or a government board. We do not wish to put anything more on the government than needs be, of course. We thought the Association or the government. The wholesaler would have a licence and he would go to the manufacturer and say, "I want to buy so and so. This is my licence number." If he has a licence number he gets the jobber's price, which is generally 20% less than the dealer's price. Then, it does not place the onus on the manufacturer to say this man is a jobber, this man is a dealer. There would be some set-up whereby you could say he has so many travellers or he does this or that, in some way he qualifies as a legitimate jobber.

MR. WICKWIRE: Your suggestion would involve quite a bit of government control in registration of licences.

MR. TYAS: It has been done in certain provinces. I understand in only one. I am thinking of the Province of Quebec. I do not know what reason they had for instituting provincial licences.

MR. WICKWIRE: You are suggesting provincial control?

MR. TYAS: No, do not push it over on to Ontario, leave it with Ottawa. I do believe in British Columbia they have something of the same type of regulation.

THE CHAIRMAN: You might find some serious constitutional difficulties.

MR. WICKWIRE: The control you suggest is by the Director or this Commission? Is it a federal control?

MR. TYAS: It would have to be some board or some

authority who would pass upon the legitimacy of a certain
27 wholesaler as a wholesaler. I do not think that is the only method. I do not say it is the best method but it was one idea that came to mind. It was just passed along as a suggestion. I might say, as a matter of fact, it did not meet with the wholehearted support of our Association. They thought it was a good idea but that the time was not propitious.

MR. WARDLE: I believe the provincial licence is in connection with a provincial sales tax.

THE CHAIRMAN: Your position is that you are not actually asking for restoration of a system of resale price maintenance because you have spoken in favour of some latitude in selling prices, you are not asking for fixed prices, but you want to stop what are genuine loss leaders as you have defined them?

MR. WARDLE: Our No. 1 suggestion is return to the price maintenance policy or a fair trade policy, but I cannot define a fair trade policy.

THE CHAIRMAN: The things you would not take exception to would practically rule out any complete resal price maintenance law.

MR. JARDINE: I do not think if we had a price resale maintenance law that it could be enforced. I do not think we can say to a man, "You must make 33-1/3", there must be some leeway.

THE CHAIRMAN: You are not arguing for a definite price resale maintenance law, but some limits.

MR. FAVREAU: It would be the limit where you would not lose.

MR. JARDINE: We would lose at 10%, but you could meet that competition if you sold at that price.

MR. WARDLE: Then, you would know what your competition was. You would know whether or not he was making some profit. You could say to yourself, "I must be satisfied with the same thing". You could go back to your premises and see if you could not do the same as John Smith, to see if you could improve your set-up.

THE CHAIRMAN: There is one statement at the bottom of page 2:

"In 1953, one group of retailers alone (Radio and "Appliance) suffered a 117% increase in business "failures, over 1952."

You do not say where that statement is to be found. Could you give us the source of that statement?

MR. WARDLE: It was from a trade magazine. I cannot recall it at the moment.

THE CHAIRMAN: We like to know the source of statements of fact like this. The question of success or failure in business is important.

MR. WARDLE: I can get that for you.

THE CHAIRMAN: Any other questions? Mr. Wickwire?

MR. WICKWIRE: No, Mr. Chairman.

THE CHAIRMAN: Any members of the delegation?

MR. JARDINE: No.

I would like to thank you for the courtesy and consideration you have given to us in presenting our case.

THE CHAIRMAN: We wish to thank you for the presentation which was so fairly put to us. We a

anxious to get all the facts which can be brought to our attention to try and find the nature and extent of the problem and what remedies, if any, are necessary, and what are possible.

MR. JARDINE: I can assure you, sir, it is a very serious problem.

THE CHAIRMAN: That will conclude the presentation on this point.

We will have a five minute break.

---Recess from 3.40 to 3.55 o'clock p.m.

Delegation from: Cavers Brothers Limited,
St. Catharines.

Comprising: Fred R. Cavers,
President,
W.A. Cavers,
Vice-President and
Secretary-Treasurer,
John Franklin,
Counsel.

---On resuming at 3.55 o'clock p.m.

THE CHAIRMAN: Gentlemen, the hearing will resume.

The next presentation is a brief and discussion presented by and on behalf of Cavers Brothers Limited of St. Catharines.

Perhaps those appearing will let us know who is in the delegation and what their positions are.

MR. F.R. CAVERS: Mr. Chairman, thedelegation is comprised of myself, Fred R. Cavers, Mr. W.A. Cavers, and John Franklin, who acts for our firm.

THE CHAIRMAN: Is he counsel for the firm?

MR. F.R. 6AVERS: Yes.

THE CHAIRMAN: Are you the president of the company?

MR. F.R. CAVERS: If you would like to call me that, that is my title.

THE CHAIRMAN: It is a limited company?

MR. F.R. CAVERS: Yes, it is a limited company.

THE CHAIRMAN: And Mr. W.A.?

MR. F.R. CAVERS: Vice-President and Secretary-Treasurer. One of us will act as general manager from time to time, and that winds up the officers.

THE CHAIRMAN: You have official positions in the organizations just the same.

The procedure, Mr. Cavers, which is generally convenient, is for one of you to read the brief, make any comments you like as you read it or at the conclusion of it. Then, any members of the delegation may make any comments they like and then there will be questions.

28 MR. F.R. CAVERS: Well, we seem to be the first representatives of the appliance industry. The appliance industry has been well-spoken of in the last two briefs we have heard.

THE CHAIRMAN: Are you suggesting the appliance industry is spreading into other fields?

MR. F.R. CAVERS: Yes. Maybe it is an ill wind that blows nobody any good.

1. "TO THE RESTRICTIVE TRADE PRACTICES COMMISSION

"BY CAVERS BROS. LTD. ST. CATHARINES, ONTARIO

"The firm of Cavers Bros. Ltd. presenting "this brief, is an organization selling and "servicing electric home appliances, mainly "General Electric, in St. Catharines, Ontario, "for the past seventeen (17) years. About "four (4) years ago, they entered the furniture "business.

"Prior to their opening an appliance "business in St. Catharines, they had sold General "Electric appliances in New Jersey, U.S.A. "since approximately 1927.

"When Messrs. W.A. & F.R. Cavers decided

"to go into business for themselves, they were "offered a franchise also financial support in "New Jersey, but because of the vicious trade "practices which existed in the U.S.A. at that "time, they decided it would be wiser to return "to their native Canada where a certain degree "of sanity seemed to exist in retailing "appliances.

"It is not the intention of this organiza- "tion to try and inform the Committee that a "vicious predatory loss leader selling does "exist as we are aware that ample research has "been conducted by the Restrictive Trade Prac- "tices Commission in this regard. Nor do we "believe that we can offer a solution that has "not been considered, but we do feel that we would "be remiss in our duty to fellow Canadians if we "did not make certain observations as follows:-

"1. That the days of the small retailer "are numbered unless he is given a "small degree of protection.

"2. That the appliance business will be "severely damaged if it loses the con- "fidence of the buying public. Unless "dealers selling appliances are fully "prepared and equipped to service these "appliances, the electrical industry "cannot successfully compete for the "consumer dollar.

"3. That the electrical industry par-

"ticularly retailing, is one of
"Canada's largest users of labour and
"that further labour layoffs are
"imminent unless profits are more assured.

"4. That indiscriminate selling of tele-
"vision and appliances, through loss
"leader selling is an economic waste.
"Rather than bring more merchandise to
"more people, it tends to render
"jobless those gainfully employed in
"selling, servicing and advertising
"these products.

"5. Three types of dealers exist -

"(a) Those who sell vast quantities
"of merchandise with but a few
"clerks, at prices which are by
"all standards loss leaders to
"legitimate dealers.

"(b) Those who sell large quantities
"at cut prices and sparked by loss
"leader advertising.

"(c) Those who maintain a price near
"a manufacturer's suggested list
"and who maintain a highly trained
"office, sales and service staff,
"and who properly display and
"stock their franchised lines.

"It is our contention that the latter
"dealer is a greater asset to Canada as he is
" giving gainful employment to a greater number

"of people.

"We place ourselves in the latter "category. The following are a few statistics "regarding our employees

"Number on payroll - 44

"Annual payroll - $180,99[illegible].00

"Number married - 31

"Number owning own home - 22

"Number children of employees - 45

"Number owing cars - 29

"Reference to financial statements of these "three types of dealers which must be available "to this Committee would indicate only moderate "net profits.

"Our profit for 1953 was 4.63% before "federal taxes and we are concerned that in the
3 "present unstabilized market that we might just "as easily lose this small margin which would be "disastrous to a dealer with our limited finances.

"We are however, determined that we will, "if necessary, protect our investment and will "cut our staff and overhead as required and enter "into any type of merchandising programme that "will maintain our financial stability regardless "of who it adversely affects.

"It is the policy of the General Electric "Company to merchandise their major appliances "through franchised dealers but their small, or "so-called traffic appliances, through any type "of store via a distributor.

"Because of the standard of quality and "service offered by General Electric, it seems "that their merchandise is being used more than "any other to attract customers by loss leader "selling. Firms who do not handle any other "General Electric products (copies of ads "attached) . . . "

I believe you have them, Mr. Chairman, the ads I sent in.

". . . use General Electric to bring customers "to their store and by inference indicate that "their prices are low on all lines. This is "unfair and unjust to a dealer whose livelihood "is derived mainly from General Electric "products.

"COMMENT -

"It is unreasonable and unfair to invite "a dealer of our size to appear before any "investigating committee and require him to "submit proof of evident facts. Larger "organizations have research departments whose "time is fully occupied in compiling 'evidence'. "Many of those organizations would not present "these facts as it is in their interest to "aggravate price cutting conditions.

"SOLUTION -

"We do not offer any complete solution "but here is a suggestion - amend the Criminal

"Code to provide that it be a Criminal offence "for any one to indulge in predatory trade prac- "tice (not just a distributor).

"Finally, we would like to suggest that "the Government of Canada make up its mind to "afford a minimum of protection for the small "merchant or allow him to be put out of business "so that a virtual monopoly will exist in the "hands of the larger operator.

"Respectfully submitted -

"CAVERS BROS. LTD.,"

Signed by myself.

THE CHAIRMAN: Do you wish to add any comments at this time, Mr. Cavers?

MR. F.R. CAVERS: I must apologize to the Commission that this brief was hastily prepared and presented because of the fact, as I point out, we have no time in our business to do a lot of research and to answer the type of questionnaires sent out by the Commission. We just could not compile those facts.

THE CHAIRMAN: Perhaps I might explain, the questionnaire was prepared for distribution among various industries, various associations and different types of merchants. We knew perfectly well we could not expect to obtain complete answers from every one to whom the questionnaire was sent. We wanted as much factual information as we could obtain and we thought by indicating the information most useful your attention might be directed towards those things and, then, you

would provide what information you could. We did not expect you to answer everything.

MR. F.R. CAVERS: Thank you.

Nonetheless, I have spent very little time on this matter, though it is of vital importance to us - though, we are not suffering at the moment, we are quite satisfied with the margin of profit we have but the tendency is definitely towards zero and minus. Our concern is for the future. We are competing and we are prepared to go ahead and use any method necessary to remain in business. There is no secret about the ways and means of merchandising, there is nothing new in the scene. These fellows to-day who think they are smart and are advertising loss leaders are not doing anything that has not been done before. We are competing but we feel this would be a better industry and a better country to live in if everybody had a fair and equal opportunity to make a living - we are willing that our competitors should have some opportunity to.

I think we can classify ourselves as a small organization, despite the fact our volume is reasonably good - not to be compared with the big chains or department stores.

There are other slants to this problem. The retailer, I think, generally resents the attitude of the Dominion Government during the past number of years. I think one thing we could ask the Dominion Government to do is to go back to where it was when we had a certain amount of control. At least there was a certain amount of control in the business when a certain amount of

vertical price fixing was allowed. We do not advocate there should be horizontal price fixing for dealers or manufacturers or distributors; but we think the manufacturer should have the right moderately to police his own products.

There was some question here this morning as to whether we should worry about the manufacturer. I do not think I have too many people to worry about but one I would like to consider as a partner with me in the business is the manufacturer who supplies me and whose products I have in my charge. Who better can I look to for aid, guidance and support than that manufacturer? I think I have an obligation to protect his rights, interest and trademarks. I am quite willing that he should take some interest in my business. However, he will not take that much interest as to ask me to maintain a position which would put me in an uncompetitive position. They want business and, I am afraid, they will be maybe a little too lenient as far as the person is concerned. There was nothing wrong with the way things were until the Federal Government stepped in and removed all semblance of price stabilization. From that time on the trouble has started. Whether this committee or any committee of the Federal Government can plug the holes in time I do not know. I would like to be a part of it if we can help you to do it. The point is I feel it should go back to the way it was. Feeling this way about the matter I feel I did not put as much time in the preparation of the brief as I could have. However, I would submit the

following solution, which is not contained in the brief:

"Could not the matter be dealt with by "allowing the manufacturer to suspend supplying "any one who is consistently selling their "products below the suggested selling price until "that individual had satisfied an impartial "tribunal that his resale price is realistic "having regard for his operating costs and his "own line with his average profit in his business "and that in addition included in his price h "is supplying the service that an unwary buyer "might reasonably expect from the retailer as "related to the particular product."

Now, there has been some reflection cast on salesmanship here to-day. I do not think, Mr. Chairman, we should look down our noses too much at the salesman. There were a great many people who made a living during the depression selling where they could not get a job anywhere else, except on the relief rolls. The question was this: Would it not be to a customer's advantage, and should he not have the right to go and buy something where he does not have to pay for salesmanship.

Is not that, substantially, the question you have asked?

MR. WICKWIRE: That is quite right. Should not a customer have the right to, yes, if he wants to pay for service and salesmanship or if he wants to buy the same article somewhere else where he knows the article - and I admit it applies to brand name goods.

MR. F.R. CAVERS: I am of the opinion that one of

the greatest foundations of this country was salesmanship, both here and across the border.

THE CHAIRMAN: Is not it the merchant or the manufacturer who pays for the salesmanship? If he really succeeds, then the increase in volume would mean the customer would not pay any more.

MR. F.R. CAVERS: Mr. Chairman, my feeling is that the customer pays less because of salesmanship because a greater volume of merchandise is sold.

THE CHAIRMAN: That is what I am trying to get at.

MR. F.R. CAVERS: I do not wish to ramble on indefinitely here but I think we have presented our brief and have made some statements. We feel very keenly about this subject.

I missed one important point, that is the question of loss leader - and that is what we are here for.

THE CHAIRMAN: It is fairly important.

MR. F.R. CAVERS: Yes. I made the comment that there are three types of loss leader. One is the nailed down loss leader. That is the loss leader which was referred to before by one of the previous speakers. It was never meant to be sold. There is a penalty put on the salesman in some of these organizations if he sells it. It was referred to as a five dollar bill. That is a fact, we know that exists. The item is merely advertised to bring people into the store and sell them something else.

THE CHAIRMAN: Do you know whether that is at all common?

MR. F.R. CAVERS: I believe it is fairly common.

THE CHAIRMAN: Have you personal knowledge of enough instances?

MR. F.R. CAVERS: Yes, we have personal knowledge of it.

Then, there is what I like to call the nebulous loss leader; that is, one that never existed in the first place, purely fictitious advertising of something the advertiser did not have. I think in the next few days - I am not anticipating the next speakers but we cannot help but learn a little bit about what is going on - there will be something said about that.

THE CHAIRMAN: Would not that be fraudulent advertising, rather than loss leader? They cannot lose on something they do not sell.

MR. F.R. CAVERS: Definitely.

THE CHAIRMAN: That is fraudulent advertising to get people into the store, rather than loss leading.

MR. F.R. CAVERS: I believe it is brought about by this type of legislation, and I believe it is brought about indirectly.

THE CHAIRMAN: I suggest it might happen with resale price maintenance. This feature of advertising, having none of them to sell, nobody could say anything to them because they had not sold anything at a loss. It would be wide open, just as it is now.

MR. F.R. CAVERS: Then, there is the third type: Those who have a volume and are ready to sell the merchandise which they offer and are fully prepared to take a loss under their costs at the time. The hardware men

referred to a cost this morning of under $8 for a General Electric iron or kettle - I do not think they were quite clear which one it was. They are referring to a price that is less than my cost as a franchised General Electric dealer. The best we can get from General Electric is 35%. Those figures are over $8 in both cases.

THE CHAIRMAN: You mean 35% off list?

MR. F.R. CAVERS: Off list.

I sent copies of the advertisements of my competitors in which show definitely they are selling these products at cost or very nearly cost, within 5%.

I do not want to stand up here, Mr. Chairman, and leave myself wide open, because we have used or employed loss leaders in our own business, and we will continue to use them if we have to. I presume the way this situation is deteriorating almost anything is likely to happen in the future, but we are prepared. It has taken 25 years to build the business and we are not going to give it up in a hurry. We are not the smallest but we are not the biggest. Before we go there will be a lot of others go, those who should not go, those who have the right to be in business. They will go first. Then, it might be our turn but I hope by that time they will have sense enough to go back to where we were originally as far as business is concerned.

THE CHAIRMAN: You say you have sometimes used loss leaders. Have you found it a profitable device?

A. It is profitable in this regard: It creates the inference that the other items you are

selling may be a little lower than they are. It brings you other traffic which does not seem to be particularly profitable. They will occasionally buy something else but the majority of people scoot in and out, they scoot in and buy the loss leader and scoot out again.

THE CHAIRMAN: When you referred to yourselves using loss leaders, are you using that term in the sense that the price was less than your laid down cost?

MR. F.R. CAVERS: That is right.

THE CHAIRMAN: I can see that that would not be very profitable if most people scoot in and scoot out.

MR. F.R. CAVERS: No, but we may not be as smart as some of these operators. We are kind of getting our feet wet at the moment.

THE CHAIRMAN: If you cannot make it more profitable you will probably have to quit.

MR. F.R. CAVERS: We may have to quit.

THE CHAIRMAN: Does any other member of the delegation --

MR. F.R. CAVERS: I do not think either of the other members would like to say anything at the moment.

MR. FAVREAU: Some one has mentioned the outlawing of bait advertising in the United States. Do you think legislation which would directly outlaw advertising used as bait and directed toward bringing the public into an establishment with no intention whatsoever of really selling the particular item advertised would be proper legislation which would correct a situation like this?

MR. F.R. CAVERS: Well, I think we would get around to the point there where there is a lot of

advertising, legitimate advertising, done to try and sell distress merchandise or over-stocked merchandise.

MR. FAVREAU: I am speaking of advertising things you definitely intend not to sell or do not possess.

MR. F.R. CAVERS: I think legislation could be passed which would prohibit that.

THE CHAIRMAN: That would be fraudulent advertising.

MR. F.R. CAVERS: We admit to loss leadering advertising but we do not admit to fraudulent advertising; we always have what we advertise to sell.

MR. WICKWIRE: Mr. Cavers, you referred to conditions in the State of New Jersey in the United States some years ago and you returned to Canada because of more sound business conditions here. What do you think about the present conditions in merchandising in the United States? Take New Jersey, the State you referred to?

MR. F.R. CAVERS: I have no knowledge of merchandising in the United States. I have none at all. I understand they are bad. I have heard it said that you could buy a television set in Canada for less than you could on Portland Street in New York, which is supposed to be the lowest price. I have heard it said, but that is only hearsay.

MR. WICKWIRE: You know they have a Fair Trade Law in New Jersey?

MR. F.R. CAVERS: Yes, I know they have it in the States.

MR. WICKWIRE: Have you heard of the growth of

discount houses becoming prevalent in New Jersey?

MR. F.R. CAVERS: Yes, I have heard about it.

MR. WICKWIRE: Even under Fair Trade.

MR. F.R. CAVERS: Yes, even under Fair Trade. How they do it I do not know.

MR. WICKWIRE: You suggest at the bottom of page 1 of your brief that the days of the small retailer are numbered unless he is given some degree of protection. Just what degree of protection do you suggest?

MR. F.R. CAVERS: I think the smallest degree of protection which will do any good is to repeal the law which made it improper and illegal for a manufacturer to guide his dealer.

MR. WICKWIRE: To what?

MR. F.R. CAVERS: Guide his dealer, even with a little compulsion if he desired to do so. The manufacturer has a lot to gain. First, he wants that dealer to pay his bills. Secondly, he wants that dealer to sell merchandise for him, and lots of merchandise. He is in the best position to decide what margin of profit that fellow should make. He is in the best position to tell him and train him how to make a
3 sale. He is in the best position in every way to guide him. He can guide him now in almost everything except keeping him sound enough to make a profit and pay his bills.

MR. WICKWIRE: The small degree of protection you suggest in your brief is the restoration of price resale maintenance?

MR. F.R. CAVERS: That would be one of them.

I would say a small degree of protection, too, could be that it be established that the dealer could not sell at a lower price than the average price that article is sold at in his particular city.

MR. WICKWIRE: Here, again, we have this question of "average price". What average price are you talking about?

MR. F.R. CAVERS: I am speaking of the average cost of dealers to do business. In other words, if it cost us 20% and our competitor 24%, the average of the two is 22%, that should be the amount.

MR. WICKWIRE: All right. If I carry on a typ of business similar to yours in a different part of the country and I am able to do business at an average of 15%, do you suggest I must still sell that product at not less than a minimum of 22% mark-up, because that is the average?

MR. F.R. CAVERS: First, I would not admit that you could do business any cheaper than I could and give the service I can.

MR. WICKWIRE: Supposing for the minute I can. You will have to go that far.

MR. F.R. CAVERS: I will suppose you can, and I will suppose there is somebody else in the business smart enough to do business at 10%. The laws of this country are made for the average person, not for the geniuses, they are made for the ordinary man, the ordinary retailer, the ordinary citizen. If you are smarter than the ordinary you can get a little bit of profit for being smarter than the ordinary.

MR. WICKWIRE: I should be able to pocket the difference between 15% and 22%, I should be forced to keep it?

MR. F.R. CAVERS: We are talking about big spreads and profits which do not exist. The profit spread would not be anywhere near that amount, if you offer the same services, the services which the manufacturers require. But, if you then felt that you owed something to your customers - and that is not a bad way to feel, some of us in the past have felt that way, we declared a dividend one year things were so good. There are other ways you can do it. You can do it by giving X quota service over and above what you are required to give, and build good will with that money. I do not think it would be at all inconsistent to protect the small man and in that way give the odd outstanding success a little extra profit. If he is interested he can turn that back to his advantage by giving it in other ways.

MR. WICKWIRE: I merely wanted to know, as set out in your brief when you say he should be given a small degree of protection, if the small degree you meant was restoration of the right to maintain resale prices by the manufacturer?

MR. F.R. CAVERS: That would only be a small degree because price maintenance never was price maintenance in the appliance business.

MR. WICKWIRE: Were you ever obliged to take in trade-ins at a very substantial discount?

MR. F.R. CAVERS: We had it all the time, sir.

When you speak of discount, we consider we are buying a piece of merchandise when we take in a trade-in.

MR. WICKWIRE: Is not that one form of passing on a price reduction to a consumer?

MR. F.R. CAVERS: No. Well, it is one form and it is one form that is being widely used, to show trade-ins in advertising rather than straight price reductions.

MR. WICKWIRE: Was it your experience that before the present legislation was passed in 1951, during the latter part of that year, that there was a much larger practice in trade-ins than there is to-day?

MR. F.R. CAVERS: Was it our experience, do you say? Our experience is that there are more trade-ins to-day but I believe the practice to-day, the general practice to-day, is to cut the price down to the bone and, on some occasions, give no service, charge no financing, eliminate the poor fellow who cannot pay cash and take in trade-ins and throw them out, or leave them lay where they are. I believe there is that trend.

Incidentally, may I say, there has been a great deal said about small appliances, and I am glad to see we are drifting to the larger appliances. One thing you do not have an example of set before you is that larger
31 appliances, there are yearly models on major appliances and the surpluses are being sloughed off in the following year.

MR. WICKWIRE: By whom?

MR. F.R. CAVERS: By the manufacturers and their dealers. Those are used as leaders sometimes with some misleading advertising to indicate that they are being

cut. But, they are not being cut as much as the table appliances.

MR. WICKWIRE: Do you know of any instances where a manufacturer has gone to a dealer and said, "Here, I have an end of the run line, or end of the year model, and I have a great many of them. Will you get rid of them?"

MR. F.R. CAVERS: Yes.

MR. WICKWIRE: That actually occurs?

MR. F.R. CAVERS: Oh, yes.

MR. WICKWIRE: What would happen under retail price maintenance with that sort of an arrangement?

MR. F.R. CAVERS: Nothing. Nothing. He would still go to the dealer and ask him if he wants to take them at a reduced price and the retailer would be privileged to go down as low as I have suggested, at the average cost of doing business.

MR. WICKWIRE: You say, secondly, the appliance business will be severely damaged if it loses the confidence of the buying public. Can you suggest what articles have lost the confidence of the buying public?

MR. F.R. CAVERS: Practically the entire appliance business has lost the confidence of the public, not one but all. In the first place, the public does not know what to pay for an article. They do not know whether they have the lowest price. They do not know what they are going to sacrifice if they buy it at a ridiculously low price. The buying public has no confidence in the appliance business, they have confidence in the products but not in who to buy it

from or what service they are going to get on it.

MR. WICKWIRE: There has been no confidence lost in the articles, loss by the manufacturers?

MR. F.R. CAVERS: No. I would say no to that question. The confidence is the other way around.

MR. WICKWIRE: They still have confidence in the manufacturer's nationally advertised article?

MR. F.R. CAVERS: Yes, and I believe they have confidence in some of the dealers they buy it from. That is the only reason they buy from those dealers. We have many people tell us they are putting themselves in our hands. They want to buy something and they expect a square deal. That is all the public wants; but they do not know they are getting it.

MR. WICKWIRE: A lot of the public are able to have -- you emphasized G.E. articles?

MR. F.R. CAVERS: I have to.

MR. WICKWIRE: But otherwise could not have had them.

MR. F.R. CAVERS: You say there are a lot of --

MR. WICKWIRE: I am asking you if that is not so?

MR. F.R. CAVERS: Would not have them if the price had not been cut?

MR. WICKWIRE: Yes.

MR. F.R. CAVERS: No, I do not believe that. I believe the tendency is the other way around. If it becomes strictly a knock-down, strictly cash basis, the dealers will have to strive for that type of business and exclude financing, which will exclude a

great proportion of our buying public.

MR. WICKWIRE: When you speak of lost confidence of the buying public, you are talking about the public losing confidence in the dealers because the differences in prices. Is that the situation you are talking about?

MR. F.R. CAFERS: I think the public have lost confidence in the general idea of purchasing all electric appliances. I feel to-day they are putting off buying because they feel anything can happen to-morrow. I think if to-morrow comes and they find they are justified in that assumption, they will still say, "I am right, I might as well wait for the future".

MR. WICKWIRE: The information compiled by the Dominion Bureau of Statistics does not indicate that.

MR. F.R. CAVERS: Why?

MR. WICKWIRE: Well, it indicates that production keeps going up on appliances.

MR. F.R. CAVERS: Were you speaking of appliances or appliances and television?

Mr. WICKWIRE: I am speaking of --

MR. F.R. CAVERS: Are you speaking of dollars or units?

MR. WICKWIRE: I am speaking of electric refrigerators. Radio receiving sets have gone down because television sets are going up.

MR. F.R. CAVERS: That is right.

MR. WICKWIRE: I am speaking of washing machines.

MR. F.R. CAVERS: Are they going up?

MR. WICKWIRE: Yes.

MR. F.R. CAVERS: What year's figures have you there?

MR. WICKWIRE: I think you may have a copy of this, "Restrictive Trade Practices Commission, Material Collected by Director of Investigation and Research".

MR. F.R. CAVERS: What years is that?

MR. WICKWIRE: 1951, 1952, 1953.

MR. F.R. CAVERS: They probably did go up in those years.

It has been brought out before that there was a great lag after the war and there was a great demand for these products. I do not doubt a price war is going to increase the volume to some extent but I certainly believe it is not a healthy volume and it certainly is not doing any dealers any good. Certainly in the long run it is going to be detrimental to the public, there are just so many consumers in the public. Competition and salesmanship will sometimes sell items to buyers that they do not otherwise need or want, the desire can be created, but there can only be so much of that.

MR. WICKWIRE: In paragraph 5, Mr. Cavers, you say:

"Three types of dealers exist -

"(a) Those who sell vast quantities of mer-
"chandise with but a few clerks, at prices
"which are by all standards loss leaders. . . "

What do you mean by "all standards"?

MR. F.R. CAVERS: Well, to legitimate dealers. My choice of words there was not very good. I should

not have used the word "legitimate". "All standards loss leaders to the established and the general run of dealers", let us put it that way.

By that I mean that there are dealers who are selling over a million dollars worth of appliances a year, or so I am told, with one clerk, two members of the business and one stenographer, and a service man to set the merchandise up on the floor, and that is the end of his interest. They all sell at times when there is a rush on and they are definitely selling merchandise --

MR. WICKWIRE: At a loss?

MR. F.R. CAVERS: At prices that would be a big loss.

MR. WICKWIRE: To the dealer you speak of?

MR. F.R. CAVERS: To the dealer who performs all the functions of a dealer; has his service department, maintains an adequate place of business with a fair stock, gives returns where necessary. No dealer offering all the services of a dealer could possibly compete with that first category. If the country wants that kind of a dealer, all right, that is what they are going to have; but they are not going to have service and they are not going to have anybody buying appliances once they are beat. I had a man tell me, "I bought a television set at 25% off and it has never worked satisfactorily since I bought it". That man is stuck. He will not buy it from another dealer. If he has any judgment he will at least try and get some service. What good is his spending $200 on that

television set when he has no satisfaction?

MR. WICKWIRE: Did not the same gentleman have a chance of buying that television set from a legitimate dealer?

MR. F.R. CAVERS: Oh, yes, he had a choice.

MR. WICKWIRE: Where he could have had all the service?

MR. F.R. CAVERS: He took it the other way around. Somebody should protect a person like that. I believe they should be protected. I am not being facetious, I am talking about the person on the street. What do they know about the trouble you can have with appliances, particularly with television? They think they are getting a bargain; they are not.

The manufacturers require volume at this time and they sell that kind of dealer. He turns it over and all the services he is not offering means the public is not being protected under those circumstances.

MR. WICKWIRE: Nationally known brands, such as G.E. which you have mentioned, surely their products are good - I have never heard any one say they were not?

MR. F.R. CAVERS: You will not get me to say they are not.

Before we went into the television business we had two service men. Now we have as high as 21 service men, and we are a General Electric outlet - and there is a representative over there (indicating). We jumped our men up to 21 men and we have 11 trucks and men on the road, not because we are proud of these items but because we have to to give the proper service to the

customer. That is what our franchise means, they expect us to do that.

MR. WICKWIRE: Say I am a poor unsuspecting person who wants to have a General Electric machine. I do not know anything about them. I know they are nationally advertised and I see they are advertised at $54.

MR. F.R. CAVERS: We are not talking about television, then, $54.

MR. WICKWIRE: All right, talk about television, $654?

MR. F.R. CAVERS: Yes.

MR. WICKWIRE: And I am crazy to have one. I know G.E. are a good manufacturer and my friend here can sell me one for $454. Do you say I should not be permitted to buy it from my friend for $454?

MR. F.R. CAVERS: No, I did not say that.

MR. WICKWIRE: What do you say? I do not want the service because I know it is a good machine.

MR. F.R. CAVERS: You are willing to pay for it, if you can get it?

Mr. WICKWIRE: Yes.

MR. F.R. CAVERS: If you can get somebody to service it.

MR. WICKWIRE: No, I am willing to pay $454. I know I am on my own if it goes wrong. I know you will send your man out if I buy it from you, or take it back. Why should not I have my choice?

MR. F.R. CAVERS: The only reason you should not have a choice, if there is a choice, this gentleman here

cannot perform the public functions of a dealer and sell me that machine.

MR. WICKWIRE; I am his customer, he has got my money and I have got the machine.

MR. F.R. CAVERS: But he will not give you that type of service.

MR. WICKWIRE: But I do not want the service.

MR. F.R. CAVERS: Despite that you will want to get it fixed if something happens.

MR. FAVREAU: You have a $200 difference to play with, to employ the man.

MR. F.R. CAVERS: In the first place, you are toying with a lot of money because you are toying with more than his profit on a television set. $200 is a lot on any argument. Put the profit on that television set what it would be from General Electric, say, nearer $150.

THE CHAIRMAN: Not on a $650 model?

MR. F.R. CAVERS: No, I am sorry. He was nearer it than I was. I should have left that $54 deal in there in the first place.

MR. WICKWIRE: As a customer I have $200 to play with if something goes wrong with that machine, which I do not think it will. You say I should not be permitted to buy it from my friend?

MR. F.R. CAVERS: I do not think General Electric, we are bandying their name around quite a bit to-day --

MR. WICKWIRE: Take "X" manufacturer.

MR. F.R. CAVERS: I do not think General Electric, unless he is your brother-in-law or a relative, would

want him to sell you, and sell consistently, at that price on current models because he cannot perform all of the functions of a dealer, which cost 20 to 26%. Service on that price set, even although you want to wipe it off, commonly is about 5%.

MR. WICKWIRE: When you say General Electric or "X" company do not want their product sold at that price because one type of dealer is not performing all the services which the manufacturer says should be performed --

MR. F.R. CAVERS: Yes?

MR. WICKWIRE: -- what are the services that should be performed?

MR. F.R. CAVERS: Well, one gentleman went through quite a rigamarole here about uncrating and setting up. Are you going to take in the case? Are you going to take the television in the box?

MR. WICKWIRE: Any article, I do not care, take a television in the box.

MR. F.R. CAVERS: You are going to take it in the crate. That is a function, unpacking, setting up and checking that set in and running it in for 24 hours.

MR. WICKWIRE: Does this not apply to the other person who sells me a set at a lower price?

MR. F.R. CAVERS: No, some of them do not. Some of them advertise brand new, right in the crate, and that is what they mean, you get it right in the crate.

MR. WICKWIRE: And unpacking is one service. What are the others?

MR. F.R. CAVERS: Then, he puts the set on his

floor. One gentleman said that you have to make 200 demonstrations before you make a sale. He has to make some number of demonstrations before he sells you.

MR. WICKWIRE: On a G.E.?

MR. F.R. CAVERS: Certainly. People do not buy anything without some idea of what they are buying. They get some kind of a demonstration. They have the privilege of being guided in the purchase of an item. Then, they get terms, which are very important. True, they pay for terms, but those terms cost the dealer some money and represent to the dealer a contingent liability.

MR. WICKWIRE: The terms cost the buyer some money?

MR. F.R. CAVERS: Yes, it costs the buyer, he pays for them basically; but they do cost a dealer some money.

After it is sold we have to take it to your home. We have to set it up in the home. You may or you may not get installation. You say you are going to waive the guarantee. You have to pay for installation in many cases. There is an over-charge on that, he might make a little on you there. There is the fact that there is installation and it costs a dealer money to make installations. If he is going to cut at one place he may make it up in another place. After that happens there is service, and I would like to show you our service files and what can happen to a television. The average cost in 1952 of servicing television sets by our firm was $23. $23, I believe my figures are

correct. That is an average cost right across the board.

THE CHAIRMAN: Does that mean all the machines on which service was required?

MR. F.R. CAVERS: That is the average cost on all machines.

THE CHAIRMAN: All machines you sold?

MR. F.R. CAVERS: Yes, whether they had any service or not. It could, conceivably, run up to $150, and even more.

MR. WHITELEY: Was this under a service contract?

MR. F.R. CAVERS: Under the ninety day guarantee which we give, without any separate contract. This is what it costs the dealer. The dealer who sells a service contract starts off ahead of the game, he starts with a charge of $35 to $50 which he collects from the buyer.

MR. WHITELY: Does your firm supply a service contract?

MR. F.R. CAVERS: No, we do not. That is an equitable proposition for the customer. There must be a profit in a service contract and we feel we can do without that. We do not suggest a purchaser buy a television service contract apart from the ninety day guarantee which the manufacturer instructs us to put on the set and pay for all service above that because we believe the majority of trouble will come within the ninety day period. At the moment it is not even available in our firm.

MR. FAVREAU: Does the manufacturer reimburse

the dealer for any amount of money expended in servicing?

MR. F.R. CAVERS: No, just the parts. They do not reimburse us for the labour. It costs us up to $150 for an individual set. We believe if we have anything to give to the customer, and if anybody feels that 4.6% profit is too great, we would rather take that profit and turn it back to the customer in "X" warranted service from extra service.

MR. WICKWIRE: Let me ask you this: Can I buy a machine in your shop without service and without the extra charges for the service?

MR. F.R. CAVERS: No, you cannot, because we feel you would come back anyway and ask us for something. You may be the way you said regarding buying things and making a deal but we have not met too many of that type of people.

MR. WICKWIRE: You suggest to a customer, if he is interested in buying a television set, that he take a ninety day guarantee with the service?

MR. F.R. CAVERS: No, I do not suggest that to him. He gets that. There is no suggestion, that is part of what he is paying for.

MR. WICKWIRE: If he buys it he takes it whether he wants it or not?

MR. F.R. CAVERS: Yes. We would not sell a set without it.

MR. WICKWIRE: Is there any other service?

MR. F.R. CAVERS: Well, the only service that we offer, other than that, are the "X" warranted services,

which we give free a great deal of time the customers feel after purchasing the television set and it has cost them more than they feel it should cost them for the guarantee, we will sometimes make an adjustment. We also offer the facilities of a service department that is continually losing money, even though we charge our customers for service outside the guarantee. The amount they pay us is not sufficient to cover our costs and overhead.

MR. WICKWIRE: Well, then, you do not think that the public should be entitled to purchase an article without service if they so desire?

MR. F.R. CAVERS: Well, it is a difficult question to answer. We do not want the public to feel that they are paying more than they should, and I suppose there may be room for some kind of cut price outlets, if it is economically sound, where they might go and buy that kind of merchandise. But, certainly, it would be disastrous to the electrical industry if everybody sold that way. The confidence of the public is at a low ebb right now and its destruction would follow, particularly if they could not get service.

MR. WICKWIRE: In what way? Will you be more explicit for the benefit of the Commission, in what way is the confidence of the public at a low ebb? That is what we are looking for.

MR. F.R. CAVERS: I thought you answered that question very well yourself not too long ago when you said it would destroy your confidence in any product if you, say, bought an electric iron for $12.95 and

then found out to-morrow you could buy it for $7.95.

MR. WICKWIRE: No, I never said that.

THE CHAIRMAN: It might destroy your confidence in your own business judgment.

MR. F.R. CAVERS: If it is destroying your confidence in yourself it is not enhancing your confidence in me as a dealer for hooking you that way.

MR. WICKWIRE: It is not destroying my confidence in the product.

MR. F.R. CAVERS: All right. We can come to the point when you want service.

MR. WICKWIRE: I can readily see if I went to you, and you are a friend of mine, and I said, "This is an iron you sold to me yesterday for so much and I see it advertised for $2 less", it would be embarrassing
36 to you.

MR. F.R. CAVERS: Presume something goes wrong with it, which does happen sometimes. You take it into the place where you bought it, a discount house - I was going to say a cut-price house - and the operator says, "No, I am not servicing it, not for what I charged you. As a matter of fact, the manufacturer gives a guarantee. Go down to Cavers down the street, he is a G.E. dealer. He is what they call a proficiency dealer." You go down the street to Cavers and he says, "I am not servicing it. I have not seen the bill of sale. Why should I service that for you when you bought it for less than I can buy it?" I say, "No, I am not going to service it." How is your confidence now?

MR. WICKWIRE: I bought the article with no confidence, something goes wrong I am hooked. I would say this: I still have an iron. I still have some money to go and have an electrician, or whoever is a competent person, look at it. All I am suggesting is: Is it not fair that the public should have the right to determine whether they want service or not?

MR. F.R. CAVERS: I admit it is a difficult question for me to answer. Is it not fair? I do not know. If that is the case, if it is fair, then it is fair for them to buy bread under manufacturer's costs. Is it fair for them to buy legal services and put the lawyers on relief? It is fair --

MR. WICKWIRE: God forbid that that should happen.

MR. F.R. CAVERS: Well, God forbid it should happen to us. That is what we are fighting for, we are fighting for a chance to make an honest living.

If, by pretty shrewd trade practices, which your Commission admits are illegal under the Criminal Code - at least not to be desired - then, why should you stand up and ask me, "Is it fair that the public should be made to do thus and so?" The fact is, it is accepted as a predatory practice and not being in the best interests of the country. I believe we will all agree on that.

THE CHAIRMAN: The question then arises: Is that, what Mr. Wickwire was asking you about, a predatory practice?

MR. F.R. CAVERS: Well, it certainly is.

THE CHAIRMAN: That is the question.

MR. WICKWIRE: I see, Mr. Cavers, in the St. Catharines Standard of May 14, 1954, an advertisement headed, "Levin's Smash Prices". There is a whole lot of items on the page. There is an article here, Eureka Cannister vacuum cleaner, regularly $99.50, now $79.50. You have indicated your cost as $66. You say that article sold at $79.50 is a predatory trade practice?

MR. F.R. CAVERS: I say it is a loss leader. There could be a lot of debate in regard to that one item. I am absolutely positive the firm advertising that, their costs are equally as high as ours, their costs of doing business. They cannot sell them without losing money.

MR. WICKWIRE: That is the difference between $66 and $79.50 per cleaner?

MR. F.R. CAVERS: Yes.

MR. WICKWIRE: On the other side there is an item, a General Electric Featherweight iron, regularly $12.95, now $8.75. You say your cost is $8.42?

MR. F.R. CAVERS: I put that down there.

MR. WICKWIRE: You do not know what their cost is?

MR. F.R. CAVERS: No, I do not know what their cost is; but I would like to say, if I may, that it could be that they would get an extra 10% by some deal with some jobber. They might get an extra 10%. But, I would say this, that I know they could not get any more than that, unless they own a jobbing outfit, and they do not. The discount to a jobber is only 15%.

MR. WICKWIRE: Do you say that those two instances

are predatory price-cutting practices?

MR. F.R. CAVERS: Yes, I do.

MR. WICKWIRE: In both instances?

MR. F.R. CAVERS: Yes, in both instances.

7 Would you hold those ads up so I can see who they belong to?

MR. WICKWIRE: That is Levin's.

MR. F.R. CAVERS: Would you mind going over?

MR. WICKWIRE: The next one is Home Outfitting.

MR. F.R. CAVERS: Yes. And have you one from -- yes, their prices are somewhat similar.

MR. WICKWIRE: A G.E. electric iron is $8.85, and you say your costs are $8.42. G.E. polishers, $42.95, and your laid-down cost is $35.43. G.E. electric kettle, $8.85, your cost is $8.78 I think.

MR. F.R. CAVERS: That is right.

Is there another ad there? You asked me when a thing is predatory.

MR. WICKWIRE: G.E. swivel-top vacuum cleaner, $78, and you say your cost is $64.97. That is A. Leon & Company.

MR. F.R. CAVERS: That is right.

If I may bring out a point. The A. Leon Company and Home Outfitting are generally considered to be in a price war between themselves. Now, that may be a hard thing to prove. I cannot prove that there was a meeting with one of the manufacturers trying to get them together so they would not cut each other's throat, but its common knowledge in the trade. If that is not predatory, what is? If they are fighting each

other what are they doing it for, to give the public better value or to cut each other's throat and put one or the other out of business?

MR. WICKWIRE: Is the public buying things cheaper than they could before?

MR. F.R. CAVERS: Yes, they definitely are, if they have them on the shelves, and I cannot tell you that they have them consistently. We will assume they have them on hand and are buying them cheaper.

THE CHAIRMAN: If it is a price war they probably have them on the shelves.

MR. F.R. CAVERS: We thought of putting them on at $66.60 and, then, being out of stock very shortly.

MR. WICKWIRE: Does not it get down to this, Mr. Cavers: You will still have customers buying machines from you because they know you are an old established firm, that you maintain service and so on, all the things you have told us about?

MR. F.R. CAVERS: No.

MR. WICKWIRE: In spite of this?

MR. F.R. CAVERS: No.

MR. WICKWIRE: Well, then --

MR. F.R. CAVERS: Not those items as a matter of fact.

MR. WICKWIRE: Then, is not price a consideration to the consumer?

MR. F.R. CAVERS: Certainly.

MR. WICKWIRE: And not service?

MR. F.R. CAVERS: I think price is a consideration of the consumer.

I will tell you one thing further: I wrote the General Electric a letter complaining bitterly of this practice. When that price war broke we wrote General Electric and told them that we do not believe it is good business to sell appliances at below cost. We are taking them off our shelves, and we have taken them off our shelves. I think there will be a great many other dealers take products off their shelves.

Did you answer my question?

MR. WICKWIRE: What was your question?

MR. F.R. CAVERS: I forget.

MR. WICKWIRE: I have forgotten it, too.

MR. F.R. CAVERS: You asked a question before of another gentleman here as to what constitutes a predatory trade practice.

MR. WICKWIRE: That is your complaint.

MR. F.R. CAVERS: I say that constitutes it because -- I asked you if in your opinion that does constitute, I believe that was my question.

MR. WICKWIRE: My answer is that I cannot answer it because I do not know what his costs are.

MR. F.R. CAVERS: What has that got to do with it, the public are getting the benefit of something.

THE CHAIRMAN: The fact the public is getting some benefit does not make it a predatory trade practice. You are not condoning that.

We would like to get from you what it is that makes those items forming part of this sale a predatory trade practice in your opinion?

MR. F.R. CAVERS: Well, it tends to put me out of

business, maybe to a small degree at the moment but the principle is there; and if a practice is such as to put competitors out of business, and with the intent of putting them out of business, I say it is a predatory trade practice.

THE CHAIRMAN: If it is intended to put them out of business?

MR. F.R. CAVERS: Yes. Here are two firms with a war on and if it puts me out it is the same thing.

THE CHAIRMAN: There is a difference between doing something with the intention of putting you out of business and offering goods at a price they think is satisfactory which might put you out of business. The first would be a predatory trade practice but I doubt whether the other would be. If you cannot compete on the basis on which they can compete and do business, then I suppose you will have a difficult time.

MR. F.R. CAVERS: I think as these things unfold in your hearings you will find possibly even that firm is paying as much as I am.

THE CHAIRMAN: It is a question of intent. That is hard to find.

MR. F.R. CAVERS: Why not leave it up to us to start a suit? If I think you have injured me in a civil way can I not sue you and then let you prove it?

THE CHAIRMAN: If you think those are predatory practices for the purpose of putting you out of business you can lay an information.

MR. F.R. CAVERS: And why not just for the purpose of harming. You see, the law, I agree, as I understand it, it is laid the way you outline it. Why not give me the opportunity of defending myself by taking action against firms of that nature? Would not that be ---

THE CHAIRMAN: You still have to prove the purpose, don't you?

MR. WICKWIRE: Mr. Cavers, referring to this ad again of A. Leon Company Limited on Saturday, May 8th, 1954, in which they advertise a G.E. swivel-top vacuum cleaner for $78 which costs you $64.97. What is the suggested selling price?

MR. F.R. CAVERS: $99.50. And sixty-four something should be 35%.

MR. WICKWIRE: Leon's now are selling it at $23.03 over the laid-down price, if theirs is the same as yours.

MR. F.R. CAVERS: $13, isn't it?

MR. WICKWIRE: $13.03.

MR. F.R. CAVERS: Seventy-eight into thirteen would be what, about 18% on selling?

MR. WICKWIRE: I am not very good at mathematics.

MR. F.R. CAVERS: I am not so good either, but I would say it could be around 16 to 18%, which I contend is not their cost of doing business, and certainly not the average cost of the industry as I see it. I happen to be reasonably active in the industry, along with other dealers, and I mention that only for this reason: We have friends in the industry in different parts of the country with whom we compare statements. We work with them to get promotion ideas and all operate the same type of

business, give the same kind of service, and our costs of doing business are all within one or two percent. of each other.

MR. WICKWIRE: One other thing. You suggested the formation of an impartial tribunal?

MR. F.R. CAVERS: Yes.

MR. WICKWIRE: Do you mean by that, impartial government tribunal? What are the components of the tribunal?

MR. F.R. CAVERS: It should be -- I would be willing to accept a tribunal made up of representatives of the Retail Federation; or, to be quite honest with you, despite the fact that I have heard the Chairman comes from Manitoba, I would be willing to accept this type of tribunal as the authority in the matter.

THE CHAIRMAN: I assume you never lived in Manitoba.

MR. F.R. CAVERS: No, I was there. I tried to fight the battle of the boys in the rural electrification program.

MR. WICKWIRE: If it was a tribunal of retailers they could very easily stop the price-cutting; they could very easily form a combine in that manner.

MR. F.R. CAVERS: I did not say appliance retailers, I said Retail Federation of Canada.

MR. WICKWIRE: Of all types?

Mr. F.R. CAVERS: Oh, yes. It could be made up of every type. I am quite sure you are well acquainted with them.

MR. WICKWIRE: Thank you.

MR. F.R. CAVERS: Thank you.

THE CHAIRMAN: Just for the record, there is one little question: On page 2 you referred to your profit as 4.63%. Is that on sales or on capital?

MR. F.R. CAVERS: Oh, that is on sales.

THE CHAIRMAN: Would you give us an idea of your net return on capital?

MR. F.R. CAVERS: Well, I can.

THE CHAIRMAN: Is it more or less?

MR. F.R. CAVERS: Well, naturally, it is a lot more.

THE CHAIRMAN: It depends on your sales being more in one year than your capital, and how much more? If your sales are several times the amount of your capital --

MR. F.R. CAVERS: Yes, they are.

THE CHAIRMAN: -- this 4.63% on sales makes a good return on capital.

MR. F.R. CAVERS: Yes, it does. There is nothing wrong with the profit, if it stays that way. I am concerned with it going 5% the other way, which would be a 1% loss and would be quite disastrous. I brought a financial statement along and if you would like to see it I would be glad to show it to you, without making the statement public. Would that be satisfactory?

THE CHAIRMAN: Yes. 4.63% on capital would not be too prosperous a position, but 4.63% on sales does produce a satisfactory picture so far as the capital picture is concerned?

MR. F.R. CAVERS: Oh, yes.

THE CHAIRMAN: Are there any other questions any

one would like to ask or any other statements?

MR. F.R. CAVERS: The only thing I would like to say, Mr. Chairman, on behalf of my brother and our firm, I would like to express our appreciation for your kind indulgence to-day in hearing us. We would be very glad to be of any service we can in the future if it is of any help to you, and particularly we appreciate this opportunity of being heard.

THE CHAIRMAN: Thank you, Mr. Cavers. It is not something for which we are entitled to credit. It is our job. We are trying to do a job, which probably means a good many people like yourselves do a good deal of work which you otherwise would not have to do. We appreciate your preparation and the thought that you have put on the matter. You are the people who are entitled to the credit, you are not being paid for this.

MR. F.R. CAVERS: Well, not directly, anyway.

THE CHAIRMAN: 10.00 o'clock to-morrow morning.

---Whereupon the hearing adjourned at 5.15 o'clock p.m. on Tuesday, 1st June, 1954, until 10.00 o'clock a.m., on Wednesday, 2nd June, 1954.

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RESTRICTIVE TRADE PRACTICES COMMISSION

LOSS LEADER SELLING

TRANSCRIPT OF EVIDENCE

Vol. 5

TORONTO

JUN 2 1954

RESTRICTIVE TRADE PRACTICES COMMISSION

IN THE MATTER OF

an inquiry

Regarding Loss-Leader Selling

Hearing held (in public) in the Senate Chamber, University of Toronto, Wednesday, June 2nd, 1954.

PRESENT

C. Rhodes Smith, Q.C., M.A., LL.B., D.C.L. — Chairman.

Guy Favreau, Q.C., B.A., LL.B., — Member.

A. S. Whiteley, B.A., M.A., — Member

APPEARANCES:

Mr. N. W. Wickwire, Q.C.,
and
Mr. Paul Gerin-Lajoie
— Counsel for the Commission

REPRESENTATION

TORONTO, WEDNESDAY, JUNE 2nd, 1954

Delegation from: NEW ERA HOME APPLIANCES LIMITED

Represented by: Mr. C. Lewis

---The hearing commenced at 10.00 a.m.

THE CHAIRMAN: The hearing will come to order, gentlemen. This morning I believe the first representative to speak will be the representative of New Era Appliances, Mr. Lewis. Do you desire to make a statement to us? I notice you have no brief filed. Did you desire to make a statement or to answer questions?

MR. LEWIS: I would rather you ask me anything you wish, sir.

THE CHAIRMAN: Right. Mr. Wickwire?

MR. WICKWIRE: You represent New Era Home Appliances Limited?

MR. LEWIS: Yes sir.

MR. WICKWIRE: Are you an officer in that company?

MR. LEWIS: Yes sir.

MR. WICKWIRE: What, president?

MR. LEWIS: Yes sir.

MR. WICKWIRE: And are you the manager, managing director as well?

MR. LEWIS: Yes sir.

MR. WICKWIRE: What is the nature of your business?

MR. LEWIS: Well, we are retailers of electrical appliances.

MR. WICKWIRE: And you have an outlet situated where?

MR. LEWIS: 2898, 2900, 2902 Danforth Avenue.

MR. WICKWIRE: In Toronto?

MR. LEWIS: Yes sir.

MR. WICKWIRE: When did you go into that business, Mr. Lewis?

MR. LEWIS: Eight and a half years ago, right after the war.

MR. WICKWIRE: Did you establish the business at your present location?

MR. LEWIS: No sir. We started at 2120 Queen Street East.

MR. WICKWIRE: And when you say "we started", will you just tell us something about the establishment of your business?

MR. LEWIS: Well, I started the business at 2120 Queen Street East, the same lines as we carry right now.

MR. WICKWIRE: And anybody associated with you?

MR. LEWIS: Partners?

MR. WICKWIRE: Yes, at that time?

MR. LEWIS: No, sir, by myself.

MR. WICKWIRE: And did you start from the beginning under the name of New Era Home Appliances Limited?

MR. LEWIS: Yes sir.

Mr. Wickwire: How many employees did you have at the time?

MR. LEWIS: One, started out with one employee.

MR. WICKWIRE: Besides yourself?

MR. LEWIS: Yes sir.

MR. WICKWIRE: Did you have any warehouse facilities at that time?

MR. LEWIS: No sir, there wasn't any need. We could not get enough merchandise to fill our orders. We just used to take orders and people would wait anywhere from 4 to 8 months for a product, for a refrigerator, range or washer, so there was no need for any warehousing facilities at the time.

MR. WICKWIRE: How many employees have you today?

MR. LEWIS: 45 permanent and 8 extras, 8 spare-time.

MR. WICKWIRE: The extras do spare-time?

MR. LEWIS: Yes sir.

MR. WICKWIRE: Are they selling force or servicing?

MR. LEWIS: Selling, those 8 are selling.

MR. WICKWIRE: Any warehouse facilities today?

MR. LEWIS: Yes sir.

MR. WICKWIRE: Would you just describe what they are?

MR. LEWIS: Well, we carry on the average of about 4,000 products consisting of refrigerators mostly; the next biggest item is right now television, the next biggest item is ranges and then washers.

MR. FAVREAU: Are you speaking of your actual

stock on hand?

MR. LEWIS: Actual stock on hand, sir.

MR. FAVREAU: Or number of different types of items that you carry?

MR. LEWIS: Right now it would be about 4,000 items.

MR. WICKWIRE: Not 4,000 different items, but you have 4,000 articles?

MR. LEWIS: Articles.

MR. FAVREAU: Units?

MR. LEWIS: Yes sir.

THE CHAIRMAN: Not 4,000 kinds of articles?

MR. LEWIS: Oh, no.

MR. FAVREAU: Not 4,000 products, that is what I mean.

MR. LEWIS: Oh, no.

MR. WICKWIRE: Are you in the so-called small appliance business as well?

MR. LEWIS: In a very small way.

MR. WICKWIRE: And what is the nature of the small appliances?

MR. LEWIS: Well, we carry toasters, irons, Mix-masters, kettles and small radios. By small radios I mean mantel radios, mantels and portables.

MR. WICKWIRE: Table models as well?

MR. LEWIS: No, we do not carry any table models at all.

MR. WICKWIRE: Just the really small ones?

MR. LEWIS: Very small.

MR. WICKWIRE: Mantel and bed-side radios?

MR..LEWIS: That is right.

MR. WICKWIRE: Will you tell the Commission, Mr. Lewis, whether or not these appliances, both of the larger nature such as refrigerators and television sets and the smaller types that you have mentioned, are branded nationally advertised makes or do you carry other makes as well?

MR. LEWIS: Practically all mine are nationally known makes.

MR. WICKWIRE: What about your buying policy, Mr. Lewis, would you tell us something about that?

MR. LEWIS: Well, we try to buy large amounts of merchandise at the cheapest possible price. In fact, I will give you an example. We buy right now out of season television, which is a drug on the market now, and we are buying them up now and going to carry them until the Fall when we feel that we will make some money out of it.

MR. WICKWIRE: Has there been any change in the development of appliance selling within the last, since you have been in business?

MR. LEWIS: Oh, definitely. Competition is very keen.

MR. WICKWIRE: Will you describe what those changes have been?

MR. LEWIS: Well, the first four years practically we were just order takers, we did not have to sell at all. People came in and practically got on their hands and knees to get delivery of an item.

Around 1950 it toughened up a little bit. We had to do a little selling. Gradually we had to do a little more and right now it is rough. The customers shop. We have made a survey of our own customers who come in and ask us, say, every fifth or tenth customer: "How many stores have you been to, Mrs. Smith or Mrs. Jones?" "Oh, twelve stores, and we are not ready to buy yet. Want to get the best deal we can". So we give them our price and many times they walk out, we cannot sell them. It is rough.

MR. WICKWIRE: That is because they are shopping for their article?

MR. LEWIS: That is right. Competition is very keen right now. If they come into the first store you have no chance of selling at all, even if you chop the price down below cost.

MR. WICKWIRE: To use your description of it, right now you say it is rough?

MR. LEWIS: Yes sir.

MR. WICKWIRE: And that is your explanation for it, that the shoppers are keen. Is there any other explanation?

MR. LEWIS: That is about all I can say, that it is rough because customers shop, and that is about all I can explain.

THE CHAIRMAN: There is no lack of customers, there is not a reduction in the number of customers?

MR. LEWIS: Oh, there is, yes sir, there

is a reduction. After all there is a saturation point somewhere along the line. Right now people come in and they have a refrigerator 5 or 6 years old which is good for another 10 years and if they can drive a hard bargain they will trade it, but it has got to be mighty hard.

THE CHAIRMAN: What I am getting at, if there is a reduction in the number of available customers as compared with, say, last year or the year before? Is that part of what you mean when you say the situation is rough?

MR. LEWIS: Oh, yes. There are less customers, certainly.

MR. WICKWIRE: You say there are less customers today. What do you say about the articles offered for sale? Are there more or less of those?

MR. LEWIS: Well, there is more, I would say, there are more articles offered for sale right now.

MR. WICKWIRE: In your opinion, Mr. Lewis, are there too many?

MR. LEWIS: Too many dealers?

MR. WICKWIRE: No.

MR. LEWIS: Or articles?

MR. WICKWIRE: Too many articles or units.

MR. LEWIS: Yes, there are, there are too many articles. For instance, refrigerators, awfully difficult for makers of refrigerators People are confused. Everything right along the line, television, too many altogether.

MR. WICKWIRE: You say people are confused. Will you just explain what you mean?

MR. LEWIS: Well, they are dumping different makes. Now, we handle about 5 makes of refrigerators. They will come in and look at 5 of ours and go to another outlet and look at 4 or 5 or 6 of theirs. By the time they get through they look at 20 or 25 different makes of refrigerators.

Every salesman has a different story naturally trying to sell them. He boosts whatever the salesman is selling, and the public are confused. Just imagine anyone going out and looking at 25 refrigerators, 25 different makes and every one is the best refrigerator naturally, that is, the salesman makes out a story as the best.

MR. WICKWIRE: Now, you have mentioned previously that you buy in large volume?

MR. LEWIS: Yes sir.

MR. WICKWIRE: And what about your selling policy?

MR. LEWIS: Well, we advertise, you may call it aggressive in the advertising; try and give the public the best possible price we can to get them in.

MR. WICKWIRE: To get them in, you say?

MR. LEWIS: To get them in and sell them.

MR. WICKWIRE: I was going to ask you: You advertise prices on these well-known articles?

MR. LEWIS: Yes sir.

MR. WICKWIRE: And you get the public in your store as a result of the advertising?

MR. LEWIS: Yes sir.

MR. WICKWIRE: Do you have the articles to sell them that you have advertised?

MR. LEWIS: Yes sir, we have

MR. WICKWIRE: And are those the articles that are sold to the public when they come in as a result of the advertisement?

MR. LEWIS: Yes sir.

MR. WICKWIRE: Is it your policy to try and sell them something else when you get them in?

MR. LEWIS: Oh, yes, it is.

MR. FAVREAU: Something different from what you had advertised or something over and above what is advertised?

MR. LEWIS: Well, we would advertise a $249.00 refrigerator and certainly we will try to sell them a $299.00 if possible, but we have the $249.00 deal and we have that now. We just ask the customer: "What do you think of this one, $50.00 more?"

THE CHAIRMAN: If you advertise one at $249.00, the prospective customer comes in and you say you try to sell him a $299.00 one. Do you mean you would try to steer him away from the $249.00?

MR. LEWIS: No, we don't. You would antagonize them. When the customer comes in we show him the $249.00. "Now, there it is. That is

the one we advertise at $249.00. We have them." And they look around. We just ask them in a nice way: "What do you think of this?", and show them,"$49.00 or $50.00 more", just ask them to pass an opinion, which is the general rule in every store. We show them the article when they come in at first and then we ask them in a nice way, just strictly sales talk.

MR. WHITELEY: Are you offering the same value per dollar?

MR. LEWIS: In proportion, yes.

THE CHAIRMAN: They are all priced with about the same mark-up or percentage to you?

MR. LEWIS: Priced the same mark-up. We work at one mark-up right through.

MR. WICKWIRE: What is the mark-up?

MR. LEWIS: Our mark-up usually, right now it is very low, I would say right now it is about 15 to 17% above cost.

THE CHAIRMAN: 15% on the cost?

MR. LEWIS: On cost.

THE CHAIRMAN: Not 15% of selling price?

MR. LEWIS: No, sir, on cost.

MR. WICKWIRE: On cost to you?

MR. LEWIS: Yes sir, because we are taking the lowest mark-up we have ever taken right now on account of competition.

MR. WICKWIRE: That is at your lowest period you say now?

MR. LEWIS: That is right.

MR. WICKWIRE: What has been your --

MR. LEWIS: About 20.

MR. WICKWIRE: How does that 20% mark-up compare with the suggested selling prices of the articles you have?

MR. LEWIS: Well, much lower of course. The suggested selling price would be closer to, with some makers it would range anywhere from 33 1/3 to 45, up to 50%.

MR. WHITELEY: On cost?

MR. LEWIS: On cost, that is the suggested list price.

MR. WICKWIRE: Now, would you care to give the Commission any idea of the volume of business that you do?

MR. LEWIS: In the past year we did actually $4,338,000.00 from May 1st, 1953 to May 1st, 1954.

THE CHAIRMAN: That is your total sales?

MR. LEWIS: That was our gross, yes sir.

MR. WICKWIRE: Now, Mr. Lewis, what in your opinion is the effect of the reduction in price, price-cutting if you will, on these branded nationally advertised articles or appliances which you sell?

MR. LEWIS: What is that, sir?

MR. WICKWIRE: What is the effect to the public on the reputation of these nationally advertised appliances?

MR. LEWIS: I cannot get that, sir. What

is the effect on the public?

MR. WICKWIRE: Well, does it lower the esteem of the public in this appliance because the price has been, because they can buy them at a reduced price?

MR. LEWIS: Sometimes, yes, only on certain articles.

MR. WICKWIRE: Would you explain?

MR. LEWIS: Yes, we have had in our own actual experience, once for instance -- I don't know if there are any G.E. men here but I will give the answer -- when we are lower, too low, the public sometimes will ask: "Now, what is wrong with it?"

THE CHAIRMAN: You mean you do lower them too low?

MR. LEWIS: Too low, yes. "What is wrong with it?" We have had occasions. I will tell you what we have got just lately. I will give you a concrete case. General Electric floor polishers (I don't know if there is anyone here from G.E.) and actually it was a battle between one or two of us, volume stores or cut-rate stores, whatever you want. One fellow took a pass at me and I went right back at him and took another one at him, and the consequence was that the public got General Electric floor polishers about $2.50 below the actual cost. They would get that polisher and would open up the box right there in the store and look in it and ask you: "It is

not a second, is it?" Only in certain cases though, not too many.

THE CHAIRMAN: They are smart purchasers, is that it?

MR. LEWIS: That is right.

MR. WICKWIRE: Are those the people you say would complain about the value of the product, the polisher?

MR. LEWIS: They complain?

MR. WICKWIRE: Yes.

MR. LEWIS: Oh, no, they would not complain.

MR. WICKWIRE: Well, it has been suggested, Mr. Lewis, that because price is cut on a nationally known branded article, a nationally advertised article --

MR. LEWIS: Yes?

MR. WICKWIRE: -- that the public do not think that that article is of value.

MR. LEWIS: The public knows they are getting a bargain, they do know value, they know it and they get a bargain.

MR. WICKWIRE: How do they know the value?

MR. LEWIS: All they have to do is compare our price. For instance, we sell G.E. floor polishers, say, at $32.95 or $33.75, and a lot of the stores have them at much higher price, say $39.95 or $43.00. The suggested list price is supposed to be $54.50.

MR. WICKWIRE: That is the suggested list price?

MR. LEWIS: Yes. Now we sell them every day at $37.75 is our everyday selling price. When we run a large ad, 100 floor polishers at $32.95.

MR. WICKWIRE: What does that floor polisher cost you?

MR. LEWIS: You are putting me on the spot now, sir, because you see, I will say with the average dealer it costs $35.40, but I do get them for less buying them in large quantities. In case there is a G.E. man here and they know my source of supply -- I don't want to cut off my source of supply.

MR. WICKWIRE: In how many cases have you sold them below your laid down cost?

MR. LEWIS: Oh, not very often. I just picked on that one item, floor polisher. I will say, lately, even at $32.95 I am not losing money.

MR. WICKWIRE: You are not?

MR. LEWIS: No, I am not losing actually because I buy them in very large quantities.

MR. WICKWIRE: Now, on those occasions when you do sell a G.E. polisher, you say, at below your laid down cost, what is the effect of that on the number of those polishers you have in your shop?

MR. LEWIS: What is the effect?

MR. WICKWIRE: Do they go fairly quickly?

MR. LEWIS: Oh, yes, very quickly. We have had 100 polishers and the Star will come out at 12.30 or reaches u at 12.30. By 4.00 o'clock we

have sold 100 polishers in the afternoon.

MR. WICKWIRE: What is the effect on the other merchandise in your store of those occasions?

MR. LEWIS: Very good. People come in, look around, shop around. That is what we want, traffic.

MR. WICKWIRE: And that is the purpose for selling the lot of G.E. polishers at below --

MR. LEWIS: Yes sir.

MR. WICKWIRE: Below cost.

MR. LEWIS: Yes sir.

THE CHAIRMAN: Mr. Lewis, I just want to be quite clear. I thought you said that even at that $32.95 or whatever it was, that you were not actually selling below cost?

MR. LEWIS: Well, no, I am not.

THE CHAIRMAN: Well, does that alter the statement you made earlier that you sometimes sell below your laid down cost?

MR. LEWIS: Certain items, yes. Here is the reason for that. Now I have two or three sources of supply on floor polishers, and some distributors will give me a better deal than others. Some of them I will buy a couple of gross of floor polishers at just about the price set. $32.95, $32.50, $32.70, and I run short and this particular distributor whom I buy from has not any and I will have to go to another distributor and pay them $34.50.

THE CHAIRMAN: Does that mean that it is pretty unusual even with regard to floor polishers

that you actually sell below your laid down cost?

MR. LEWIS: No, we don't sell below, actually below cost. We see the average is up all right.

THE CHAIRMAN: On the average you make a little on laid down cost?

MR. LEWIS: Yes, we do.

THE CHAIRMAN: Occasionally some are sold below laid down cost but that is rather unusual, is that it?

MR. LEWIS: That is right.

MR. WICKWIRE: Do you know of any instances where your customer has been misled by reason of your sales policy which you have described?

MR. LEWIS: Our own particular sales policy?

MR. WICKWIRE: Yes.

MR. LEWIS: I don't think we mislead customers. If you start misleading customers the Star will not take your ad any more. No, I won't say that, I don't want to in case anyone is here from the Star, but the Star have to protect their readers.

MR. WICKWIRE: And in what way do they protect their readers?

MR. LEWIS: Well, when we advertise something we haven't got, we will advertise an article, a non-existent article, or false cut of an article, "Now here is so-and-so", a customer will come down to our store and say: "I have the picture here. Where is that washer you advertise for $109.00?" "Well, they are all sold out", give

him some cock and bull story that does not exist. That customer in many instances will call up the Star: "Now, look, I have been reading your Star and I believe it is a truthful paper", and so on. The Star calls up: "What is the idea of this advertisement?"

THE CHAIRMAN: Mr. Lewis, are you stating that this is what has happened or --

MR. LEWIS: Yes, it has happened.

MR. WICKWIRE: Well, has it happened to you?

MR. LEWIS: No, sir, I have never been -- no, never.

MR. WICKWIRE: Then you say these people will call up the newspaper and say: "We went to so-and-so's store and he did not have the article advertised". Then what happens after that?

MR. LEWIS: The Star will call us up and ask us: "Did you have that article that you advertised yesterday?" Naturally you will lie to them: "Yes, sure". "Now, here is a complaint we have. This customer travelled 20 miles and said you did not have them." "Well, I guess we would have sold them out." "Have you the invoices to prove you sold them?" Well, you are stuck because every store must have an invoice regardless of the size of the article, if it is a $1.00 or a $500.00 article.

THE CHAIRMAN: And these instances have happened?

MR. LEWIS: Oh, yes, they have happened, yes, they have happened.

THE CHAIRMAN: With you?

MR. LEWIS: Not with me, no sir.

THE CHAIRMAN: Then what we want to get at, you are telling us what you say the Star would do in the event of that kind. If it has not happened to you, how do you know that it has happened?

MR. LEWIS: I know because the Star will ask us when we advertise an item: "How many of those have you got?"

MR. WICKWIRE: Do you tell them?

MR. LEWIS: Yes, we tell them. If they only have 4 or 5 of that article they will ask you to put in "4 or 5 only", just not to mislead the public.

THE CHAIRMAN: I am not quite sure what your previous remarks meant. What does that mean, that on some occasions the store would call you up and tell you they had a complaint from somebody who said they had read your ad and gone into the store and it had none of them?

MR. LEWIS: That is right.

THE CHAIRMAN: But you admitted you had no knowledge of ever being called yourself on these advertisements?

MR. LEWIS: They have never called us on that, but I know they have other dealers.

MR. WICKWIRE: When you say the newspaper would call "us" up you are talking about other

people who run outlets where appliances are reduced, cut?

MR. LEWIS: That is right.

MR. WHITELEY: Excuse me, but the newspaper has checked before your ad has actually gone out?

MR. LEWIS: Yes sir, they have checked with me. Just recently I advertised an Easy Drier and they called me up. "How many of them have you got?" Well, I had 17 driers and why they didn't believe me I don't know. I believe someone, a competitor, said: "Well, he has not got any of those driers". So the Star sent down a man and I took him down to the warehouse to check and I had 17 Easy Electric Driers. That happened quite recently, a couple of months ago.

MR. WICKWIRE: What happens, Mr. Lewis, in cases where the newspapers discover that an advertiser did not have the articles or only had one -- it was, to use the accepted phrase, a "nailed down" article.

MR. LEWIS: Yes sir.

MR. WICKWIRE: What happens in those instances?

MR. LEWIS: Well, I believe the Star will tell you you cannot lie to the public and they will tell you not to advertise if you have one article. It is false advertising because you bring a lot of people in from Metropolitan Toronto and they travel 10 or 20 miles to you and you haven't got it, we just had the one or said "one

only".

MR. WICKWIRE: Do you know of any cases of suspension by the newspapers from further advertising until they correct that sort of thing?

MR. LEWIS: I do, sir. I would not care to mention -- the Star did just recently. In fact there is one under suspension right now.

MR. WICKWIRE: Now, when you sell these articles at reduced price or cut price, would you tell us about your service policy on that article to the customer?

MR. LEWIS: Most of these articles, the service is carried by the manufacturer so regardless of the price the consumer buys it for they get the same service, it does not alter the service policy at all.

MR. WICKWIRE: Do you **sell** any service with any of the appliances that go out of your store?

MR. LEWIS: Do we sell service?

MR. WICKWIRE: Yes.

MR. LEWIS: Charge extra for service you mean?

MR. WICKWIRE: Well, do you maintain service?

MR. LEWIS: Oh, yes.

MR. WICKWIRE: Have you a service department?

MR. LEWIS: That is right, we have service.

MR. WICKWIRE: And if a customer asks you

for service on an appliance, will you describe just what takes place?

MR. LEWIS: Well, we just service the article if he asks us for service. Certain manufacturers do not carry their own service. For instance, Moffat Ranges, every dealer carries their own, so we just give them service.

MR. WICKWIRE: Does he get that service at the same cost?

MR. LEWIS: Yes sir. When an article is sold, appliance is sold, that includes service. I have never heard of a case where a dealer will charge extra for service, except in television, which is a general rule. When a television set is sold there is always an additional charge for service.

MR. WICKWIRE: For servicing the television set?

MR. LEWIS: Right, but not on a range, that is automatic.

MR. WICKWIRE: What would be the additional charge and for what period of service would the customer be provided?

MR. LEWIS: On television, yes, I will give you our own case. We give a customer a choice of $10.00 for the first 30 days, $20.00 for three months.

MR. FAVREAU: Does he have the choice not to take it?

MR. LEWIS: No, in fact about 50% of our

own now do not buy service at all. We look after our own set because we guarantee the television to be in working condition when it gets to the home and there it is.

MR. FAVREAU: You guarantee it to the home?

MR. LEWIS: Yes sir.

MR. WICKWIRE: Supposing under your guarantee I buy a set from you at your lowest price?

MR. LEWIS: Yes sir.

MR. WICKWIRE: I don't pay for service but I accept your guarantee that that set is in perfect condition when it arrives at my home.

MR. LEWIS: Yes sir.

MR. WICKWIRE: The set is delivered, you make the delivery.

MR. LEWIS: Yes sir.

MR. WICKWIRE: And I find that I am not mechanically minded or electrically minded and there is something that is not working right. What happens?

MR. LEWIS: We give you one courtesy call, one free courtesy call, but usually the salesman that sells you --

MR. FAVREAU: You say that you guarantee that article will be in workable or working condition when it gets to the house?

MR. LEWIS: That is right.

MR. FAVREAU: I suppose if you have supplied one service call and the appliance does not work after that call you fulfil your guarantee

there?

MR. LEWIS: Well, the parts, the service and the warranty are different. Most sets have a one-year warranty for all parts, but if they buy it without service we give them one call free, that is a courtesy call, and after that we charge them $4.75 for a call.

MR. WICKWIRE: Per call?

MR. LEWIS: Per call.

THE CHAIRMAN: On the courtesy call would you set the machine up?

MR. LEWIS: No, the drivers set it up.

THE CHAIRMAN: That is done by your operators?

MR. LEWIS: Right, and then afterwards if they cannot operate it properly, we send out a service man, one call free.

THE CHAIRMAN: Who instructs them how to operate it?

MR. LEWIS: That is right.

MR. WICKWIRE: What happens, Mr. Lewis, in the case of a customer, in spite of the guarantee, the driver has set it up and there has been one courtesy call made and he is still dissatisfied with the machine?

MR. LEWIS: We give him an option of exchanging the set or giving them their money back, give him the option of exchanging it on another set or give him his money back.

THE CHAIRMAN: I suppose when the driver

sets it up, if he finds it does not work properly he brings it back?

MR. LEWIS: No, sir. He calls me from the house. He says: "We have set the set up there and there is something wrong, it does not work". So we send up the service man with one free courtesy call immediately.

MR. WICKWIRE: How many service men have you?

MR. LEWIS: On television?

MR. WICKWIRE: Yes.

MR. LEWIS: Right now, 5. It is our slowest season right now - 6 men, pardon me, 5 outside men and 1 bench man.

MR. FAVREAU: On your $10.00 -- 30-day service policy, do you limit the number of your calls?

MR. LEWIS: No, unlimited.

THE CHAIRMAN: Whatever the situation calls for?

MR. LEWIS: Right, sir, but if we run into grief with a set we very seldom do. We just pull the set out and exchange it for another one. If the customer gets too many calls there is something wrong with the set, and often there is.

MR. WICKWIRE: Do you know whether or not there are some dealers selling television sets without maintaining any service staff?

MR. LEWIS: I believe there are smaller dealers who have not any service, but they hand that service over to a service company. There

are quite a number of them in Toronto.

MR. WICKWIRE: Service companies?

MR. LEWIS: Right, sir, you can sell your service to them, or the individual can buy one. They will buy the set from us without service and they will buy service from this service company.

THE CHAIRMAN: You mean the dealer will make the contract with the service company under which service arrangements will be made by the dealer?

MR. LEWIS: That is right.

THE CHAIRMAN: Which are carried out by the service company?

MR. LEWIS: That is right.

MR. WICKWIRE: Does a customer in your store wishing to purchase a television set get the option of buying a set with or without service?

MR. LEWIS: They have the option of buying with or without. In fact right now, just recently about 50% of our sets are sold without service at all. They do not want the service.

THE CHAIRMAN: They are satisfied to take a chance?

MR. LEWIS: They are satisfied to take a chance and it works out very well too. Most people or their neighbours have had a little experience. There is not much wrong with the sets. Neighbours or friends or relatives, there is always somebody who knows something about a set.

MR. WICKWIRE: Mr. Lewis, it has been suggested that the best method of selling appliances is what is termed creative selling, that is by demonstrations and maintaining a big sales force and so on. What do you say about that?

MR. LEWIS: Creative selling, to my personal opinion, I do not think it works out. You cannot just create a sale. People must want an article before they come in. If they come in for a certain thing that is what they are going to buy and you are not going to sell them anything else. If they come in for a refrigerator you are not going to sell them a range with it. Is that what you are getting at, creative, to create another sale?

MR. WICKWIRE: I will put it this way. What in your opinion sells more appliances, the lowering of prices or creative selling by demonstration and getting interest created in a purchaser's mind so that he wants that article?

MR. LEWIS: Definitely the lower prices sell. You can talk till Doomsday but if the price is not right you cannot sell the article. It is absolutely lower prices right now and have been all along.

MR. WICKWIRE: Ever since you have been in business?

MR. LEWIS: Yes sir.

MR. WICKWIRE: I take it you went into business in 1946 or 1947?

MR. LEWIS: March, 1946.

MR. WICKWIRE: And there has been an increase in the number of appliance dealers from 1946 to 1954?

MR. LEWIS: Oh, definitely. I believe to the best of my knowledge when I started in Toronto there were about, I will say, 75 dealers in Greater Toronto. Now there is 5, 6 or 7 times as many, at least that.

MR. WICKWIRE: How do you account for that, Mr. Lewis?

MR. LEWIS: Well, they all want to get in and make money, that is the only way I can account for it. It was a very lucrative business the first four or five years. All you had to do when a customer came in is - "How soon can I get it, please? $100.00, $150.00," every refrigerator cleared, no competition. They begged you to sell the merchandise and everybody wanted to get into the act, that is all -- very lucrative.

THE CHAIRMAN: They wondered how long this had been going on?

MR. LEWIS: Oh, that is a fact. All you had to do was -- the idea was to get the product from the manufacturer, put it -- well, they didn't even hit the floor. We just called up. We would get a release of, say, 20 refrigerators from a certain maker and we turn in 20 names -- deliver. We have had the names for months waiting and people would call you up and say: "Oh, thank you for delivering the refrigerator",

and getting the full list price. Why shouldn't they want to get in?

MR. WICKWIRE: I will put it this way, Mr. Lewis. Can you tell me whether or not the number of outlets is on the wane now in Greater Toronto area?

MR. LEWIS: I believe it is on the wane.

MR. WICKWIRE: Can you suggest any reason why it should be?

MR. LEWIS: Yes, competition is getting so rough right now, that the ones that are not financed right are going to go out.

MR. WICKWIRE: What do you say about the ones who are selling the same articles that you are selling at the suggested retail prices?

MR. LEWIS: There are not any. I don't believe there is any one, any retailer in Toronto, unless it is a very small item, $1.00, $2.00 or $3.00 or $5.00, selling at the suggested list price. People don't pay the suggested list price because that is out. They are looking for bargains and they get them.

MR. WICKWIRE: Now, I suppose there was a time in your business history in this business when the manufacturer could and did set a retail price?

MR. LEWIS: Yes sir, up till the Act came in.

MR. WICKWIRE: What did you do when that condition maintained?

MR. LEWIS: Well, we were just sitting on a keg of powder all the time. The retailer did not know from day to day when his franchise would be cancelled by a manufacturer. If a manufacturer caught you selling below and he felt like cancelling your franchise, no more merchandise, you are through.

MR. WICKWIRE: Were you still able to sell goods at a discount?

MR. LEWIS: Oh, yes, we did.

MR. WICKWIRE: In what manner?

MR. LEWIS: Well, we would give him in plain words a phony trade-in. Say, if a refrigerator sold at $399.00 and we had too many of them, and we figured we wanted to put them out at $349.00 or $359.00, we would give him $40.00 or $50.00 on an old broom or a hairpin, anything at all, and put in "by trade-in $50.00" and that is it.

MR. WICKWIRE: Was that sort of thing pretty general in the industry, or in the trade?

MR. LEWIS: Here in Toronto, very general, but you had to protect yourself from the maker because, as I say, you didn't know when he would say: "Well, that is all, you have had it".

MR. WICKWIRE: You mentioned just a minute ago that there are smaller outlets are also selling appliances at below price?

MR. LEWIS: Yes sir.

MR. WICKWIRE: And I think you said they have to meet the competition. What about private

brands of, say, refrigerators or washing machines?

MR. LEWIS: I don't get that, sir. What do you mean, private?

MR. WICKWIRE: Well, say, stencilled brands?

MR. LEWIS: Well, they are rough right now. It is common knowledge amongst the retailers to use one of those stencilled brands to get people into the store and sell them out. Stencilled brands are bought very cheap right now. They cannot compete with the well-known brands.

As a matter of fact I see a competitor right now, I believe he does the same thing that I do, a very large one, one of the large dealers in the City, and that is what we do, get people in on that stencilled brand because the well-known maker, you know who they are, of refrigerators, we cannot go -- they won't tolerate us. although the price is open under Section 498 (a). We don't want to antagonize them and take his merchandise out and bang it off in the open at low price, so we buy stencilled brands and then we hurt no one.

MR. WICKWIRE: Now, is the stencilled brand the same machine?

MR. LEWIS: No.

MR. WICKWIRE: In what way would it differ?

MR. LEWIS: It is not made as well.

THE CHAIRMAN: It is made by the same manufacturer?

MR. LEWIS: No, it is not made by the same manufacturer. I know just what you mean.

As a matter of fact there is one manufacturer who makes a stencilled brand for another one, but if you look at it closely you will find that it is cheaper. I mean, it has not got the same as the regular line.

MR. WICKWIRE: Well, in what way is it cheaper, different type of handle?

MR. LEWIS: It has a different type of handle and that is about all.

MR. WICKWIRE: That is about all?

MR. LEWIS: Just to make it look different.

MR. WICKWIRE: What about the working parts?

MR. LEWIS: Exactly the same.

THE CHAIRMAN: You mean essentially it is the same machine?

MR. LEWIS: Well, it is.

THE CHAIRMAN: It doesn't look quite as well or is not finished quite as well?

MR. LEWIS: Just the handle, about all.

MR. FAVREAU: What about the usefulness of the thing?

MR. LEWIS: Same thing.

MR. WICKWIRE: And the durability of it?

MR. LEWIS: Oh, same thing.

MR. WICKWIRE: Well, would it be possible in your opinion, Mr. Lewis, under a system of retail price maintenance, for a dealer such as yourself to sell, if you could get them, these stencilled machines and sell cut-price over

the regular machine?

MR. LEWIS: No, not for a dealer like myself. I would have to be much better known than I am right now to sell a stencilled line. We are pretty well known but not that well.

MR. WICKWIRE: That would be with your own trade names?

MR. LEWIS: Under my own trade name, right. Now, take, say, a very well-known make of refrigerator, for instance, I will just take a name out of the sky, Crosley Shelvador is a very well-known make. We will take the same refrigerator and put New Era" on it or "Charlie Lewis", whoever it is. It would not sell nearly as well as the Crosley Shelvador. In fact I doubt if I would sell 5%, 5 out of 100.

MR. WICKWIRE: But would you be able to sell the New Era we will call it, refrigerator in competition with the Crosley Shelvador if the price were maintained?

MR. LEWIS: If the price was --

MR. WICKWIRE: Maintained on Crosley Shelvador and you could still sell your brand, the same machine except for the handle, at a much reduced price?

MR. LEWIS: Oh, yes.

MR. WICKWIRE: Is that in fact what is done?

MR. LEWIS: That is what is done right now, that is right.

MR. WHITELEY: I am not clear how these stencilled lines fit into your operations?

MR. LEWIS: Well, we don't like them ourselves, but there is nothing you can do about it.

MR. WHITELEY: I mean in your own business?

MR. LEWIS: We don't use no stencilled lines.

MR. WHITELEY: You don't use stencilled lines?

MR. LEWIS: No, we are not big enough for that.

THE CHAIRMAN: You don't use them at all?

MR. LEWIS: Not stencilled lines. I just don't get that right. We buy refrigerators under manufacturers' name but not as a stencilled line. The stencilled line means that if I go to a refrigerator maker and say: "You build me a 1,000 refrigerators and put 'Jones' there", or whatever it is. That is a stencilled line. But if I buy these refrigerators in the maker's name that is not a stencilled line.

THE CHAIRMAN: That is a standard?

MR. LEWIS: Standard line, standard manufacturer's line.

THE CHAIRMAN: Is that the only kind you deal in?

MR. LEWIS: That is right.

THE CHAIRMAN: You do not use these stencilled lines at all that you are speaking of?

MR. LEWIS: No, we don't use stencils ourselves.

That is, we don't have any manufacturer build products for us in our names, we are not big enough for that.

MR. WHITELEY: What was the situation you were describing of not wanting to affect some nationally-known name, you used stencilled lines?

MR. LEWIS: Yes, there are makers who build stencilled lines.

MR. WHITELEY: Is that part of your own operation, this situation you describe?

MR. LEWIS: No, it is not part of our operation.

MR. WHITELEY: Well, I think you should make clear what you yourself do in your own business.

THE CHAIRMAN: Sometimes, Mr. Lewis, in answering the questions we have got the impression at least that you were talking about your own operations, whereas apparently you were talking about what some other dealers do.

MR. LEWIS: That is right.

THE CHAIRMAN: Please make that clear because we want to know what your own actual experience is when that is what you are talking about.

MR. WICKWIRE: Do you know who in the area. what dealers or type of dealers, put it that way, trade in the stencilled product? Are they people like yourself, are they small dealers or are they department stores or chains?

MR. LEWIS: Mostly department stores and chain stores, where people know they can get their

money back just like that. Those are the people who will buy stencilled lines, when you are sure that you can take a chance on the article and bring it back if it is not right.

MR. WHITELEY: I thought that is how you described your own operation?

MR. LEWIS: We are the same thing, but we are not too well-known for that.

MR. WHITELEY: The distinction must rest on something else in your mind; the distinction you are drawing must rest on something other than just the readiness of getting your money back, because I took it that is the way you operated.

MR. LEWIS: That is the way we operate, right, but after all we have been in business $8\frac{1}{2}$ years.

MR. WHITELEY: I say the distinction you are making is not that particular distinction but it is some other.

MR. LEWIS: That is right.

THE CHAIRMAN: It is the reputation of your company has not yet convinced the public that they can absolutely rely on going back for any reason whatever and making an exchange or getting their money back as they could do with certain other long-established department stores?

MR. LEWIS: That is right.

THE CHAIRMAN: And chain stores?

MR. LEWIS: Yes.

MR. WICKWIRE: You are always looking for

lower costs or purchases at the lowest cost you can get?

MR. LEWIS: Yes sir.

MR. WICKWIRE: What sort of pressure have you in your firm exerted on the manufacturer or distributors to get lower costs?

MR. LEWIS: Well, we try and find out if a manufacturer is loaded and that is very easy at times. Most of the time when we know that he is loaded we try to drive a hard bargain because he must dispose of his merchandise. We usually find out.

MR. WICKWIRE: And is there any difficulty in getting at this time the merchandise you want?

MR. LEWIS: No, there is no difficulty at all. As long as you can use a large quantity you can get a very, very good price.

MR. WICKWIRE: And that even the big manufacturers are glad, you say --

MR. LEWIS: Glad to get rid of merchandise at much lower cost. In fact they will tell you they are losing money. We don't know. Maybe they are, maybe they are not.

MR. WHITELEY: Are you in a position to go to a manufacturer and suggest to him that if he wants his goods carried in your store that he must supply you with a special price or you won't do business with him?

MR. LEWIS: No, not the good ones, not the real big ones. You would start out, say, the first

season, in our own case, and the prices are pretty stable, and the manufacturer has slipped up, hasn't made the right product, there is something wrong with it and it is piling up. It may be a refrigerator, they have all the parts and they are moving slow, there are two or three models are bad, they have not public acceptance. They will come to us and say: "We have a couple of slow-movers. We will give you another 10 off, another 15 off".

MR. WHITELEY: You say they will come to you?

MR. LEWIS: Yes, they will come to us.

THE CHAIRMAN: Is that how you find out they are loaded as you say?

MR. LEWIS: That is right.

THE CHAIRMAN: They will come and tell you?

MR. LEWIS: Yes, they will tell you. In fact we know which are the slow-movers.

THE CHAIRMAN: You gave us an example a while back of what you are buying right now with regard to television because this is the off-season and you are buying up for the coming season of the Fall.

MR. LEWIS: Yes sir.

THE CHAIRMAN: Is that one of the circumstances under which you are able to get a specially low price from the manufacturer?

MR. LEWIS: That is right.

THE CHAIRMAN: That is why you are buying now?

MR. LEWIS: Buying now off-season you get a very, very low price.

MR. WHITELEY: Wouldn't they be the last season's models?

MR. LEWIS: No, they are 1954 current models.

MR. WHITELEY: But by the time the Fall comes in --

MR. LEWIS: Yes, when the Fall comes around there will be 1955 models, but we went through that the last two years and we show the consumer "there is the 1954 and there is the 1955. There is no difference", and there is not.

MR. WHITELEY: Isn't it the normal policy of the manufacturer to reduce the last season's line as he approaches the new season?

MR. LEWIS: That is right.

MR. WHITELEY: And would not your competitors, if they waited around till the Fall, be in as good a position as you to get last season's lines?

MR. LEWIS: No, they are pretty well dried up by the Fall, they are dumping them.

MR. WHITELEY: There would not be the stock available?

MR. LEWIS: No, there would not.

THE CHAIRMAN: You buy them up soon so that they won't get them by the Fall?

MR. LEWIS: Oh no, we are not the only ones.

THE CHAIRMAN: No, you are not the only ones but you as a large buyer would take the edge off that over-loading of the manufacturer.

MR. WICKWIRE: I forgot to ask you on your total sales, how many are in your sales force, salesmen?

MR. LEWIS: Salesmen, permanent?

MR. WICKWIRE: Yes, perhaps you did tell us.

MR. LEWIS: 16 permanent salesmen.

MR. WICKWIRE: Then you have some casuals?

MR. LEWIS: Casuals, that is right, evenings and at week-ends.

MR. WICKWIRE: How many of those?

MR. LEWIS: 8.

MR. WHITELEY: When a manufacturer is clearing these over-stocked lines that are approaching the end of their season, does he go around to his dealers and make known that these lines are available at lower prices?

MR. LEWIS: As a rule, yes, unless, say, he has only 300 or 400 television sets, he will just pick out the dealer that he figures he can use that amount and he will come down and sell them, but if it is a lot he will go to all the dealers, if they have a few thousand sets.

MR. WHITELEY: You spoke of the manufacturer's guarantee applying generally on most lines. Isn't it a guarantee on material only?

MR. LEWIS: Yes, in refrigerators, ranges and washers, there is a warranty which applies to the parts and then there is service besides that.

MR. FAVREAU: From the manufacturer?

MR. LEWIS: Oh yes, you combine both. In fact some of them won't sell you any merchandise unless they carry the warranty and service. You can't buy it without.

THE CHAIRMAN: But the manufacturer does not actually provide the service, does he? He will replace parts, but the dealer provides the service, isn't that right?

MR. LEWIS: No, sir, the manufacturer provides the service in many cases.

THE CHAIRMAN: Directly?

MR. LEWIS: Yes sir.

MR. WHITELEY: Is the need of the consumer made known to the manufacturer that some article which has been purchased is not giving the proper use? Say a buyer buys a range from you.

MR. LEWIS: Yes sir.

MR. WHITELEY: And it does not operate to his satisfaction. Does he then complain to you?

MR. LEWIS: He complains to us and we tell the manufacturer.

MR. WHITELEY: Does the manufacturer send a service man down?

MR. LEWIS: Right, sir.

MR. FAVREAU: Or I suppose he can call the manufacturer direct and show his policy?

MR. LEWIS: No, the manufacturer does not like them to. They want the dealer to call.

MR. WHITELEY: What happens if the customer is located some distance away from any centre?

MR. LEWIS: Where the service is not available that is difficult. We tell the customer that we cannot give him service. We were placed in the awkward position ourselves. We do service in an area of about 40 miles.

MR. WHITELEY: That is with your own staff?

MR. LEWIS: Our own staff.

MR. WHITELEY: What about the manufacturer's position?

MR. LEWIS: They won't do it that far. They will tell you: "Our service is only in Metropolitan Toronto or maybe taking in Oakville and so on. Don't sell our product outside of our service area because we will not be responsible for service." They will tell you that.

So then if we feel that we want to sell this customer, say, in Oshawa, which we do, and we get enough products in there, we do our own servicing. If you can get enough products, you see what I mean, then we do our own servicing.

MR. WHITELEY: What is the situation with respect to refrigerators. Is it the manufacturer's service there?

MR. LEWIS: No, they won't service them outside of their area.

MR. WHITELEY: Within the area?

MR. LEWIS: Within the area they will service them, Metropolitan Toronto.

MR. WHITELEY: The refrigerator manufacturers follow the same policy?

MR. LEWIS: No, not all, but when you buy a refrigerator you usually have an understanding with the manufacturer: "Now, do we carry this service or not?", and if we carry the service they allow you about $5.00 off of each unit. Do you get my point? If the manufacturer carries it well, the unit, say, is $200.00 wholesale, service $5.00, $205.00. Service is always extra.

MR. FAVREAU: You pay for it yourself?

MR. LEWIS: We pay for it, right.

MR. FAVREAU: What are the principal lines, without naming the manufacturers, where generally the manufacturers supply service themselves?

MR. LEWIS: You don't want the names of the manufacturers?

MR. FAVREAU: You can if you want to but what are the principal types of lines?

MR. LEWIS: Principal lines, I don't believe it hurts anyone, Frigidaire carries their own service, Crosley Shelvador carry their own service. Those are my main lines and I wouldn't know anything about any other.

MR. WHITELEY: What about kinds of products, appliances, that have that service attached to them? In other words, are they refrigerators, ranges, washing machines?

MR. LEWIS: Easy washers carry their own service. Now, you can buy an Easy washer with or without service. Connor, they carry their own service, most of them carry their own service.

THE CHAIRMAN: In washing machines?

MR. LEWIS: In washing machines, yes, especially the automatics, you cannot buy them any other way because it is an automatic washer, it is actually something you have to know what it is all about. You buy them with service.

MR. WHITELEY: What policy does your firm follow with respect to finance charges?

MR. LEWIS: General Motors Acceptance Corporation carries our finance, carries our paper, and we have a schedule there that we work on.

MR. WHITELEY: Do you have a cost in addition to the charge which the consumer must pay in order to --

MR. LEWIS: The consumer pays the interest, right.

MR. WHITELEY: But do you have any costs of financing apart from that?

MR. LEWIS: No.

THE CHAIRMAN: It does not cost you anything to arrange the financing?

MR. LEWIS: No, sir, not a thing. In fact we get a portion of that finance charge, very small portion.

THE CHAIRMAN: Actually financing is a source of profit to you rather than --

MR. LEWIS: That is right. As a matter of fact it is not, it will even out about right because we put that little profit we get, we put it as a reserve. In fact they keep it as a

reserve in case it skips or there are repossessions, so it will just level off itself.

MR. WHITELEY: You said earlier that you thought price was probably the biggest selling factor in moving the merchandise. What is the situation with respect to some new product that has come on the market that the public is not very well aware of or is being introduced to for the first time?

MR. LEWIS: You mean in appliances?

MR. WHITELEY: Yes.

MR. LEWIS: New kinds of appliances? They have a very hard road to travel. Any manufacturer who goes out with a new product is right up against it.

MR. WHITELEY: No, I don't mean something that duplicates an existing appliance, but a new item entirely, new type of product that has not previously been on the market.

MR. LEWIS: In appliances?

MR. WHITELEY: Yes.

MR. LEWIS: Well, for instance, can you give me an example?

MR. WHITELEY: What I am thinking of is something that is not on the market.

MR. LEWIS: I wouldn't tackle that. Anything that does not exist I would not know anything about.

THE CHAIRMAN: Have there not been new appliances come on the market since you came into

the business?

MR. LEWIS: Yes, there has been.

THE CHAIRMAN: New types?

MR. LEWIS: Yes, automatic washers, automatic driers. Automatic driers have only been the last two or three years.

MR. WHITELEY: The suggestion has been that in order to secure public acceptance of something new, the dealer must extend a great deal of effort in educating the public and advising them and encouraging them and so on.

MR. LEWIS: No, it is usually the manufacturer who paves the way for it. They run national ads telling the public that they cannot do without a drier, it is practically a must.

MR. WHITELEY: What about the feature of demonstrations?

MR. LEWIS: Well, demonstrations, I don't believe myself. It is nice to give a demonstration in a store, but you must want a drier before you go in a store. We are not going to sell you (I am just mentioning a drier) a drier unless you want one. You must come in with the idea of getting one, but if you come in and buy another product and we take you up and say: "Now, there is a drier, it is wonderful" and give you no demonstration on it, we are not going to sell it.

THE CHAIRMAN: Do you arrange or do the manufacturers arrange with you, for demonstration of the new product on your premises conducted by

the manufacturer?

MR. LEWIS: Yes, we combine that with the manufacturer. Say, a washer is usually hooked up, automatic washer is hooked up by the manufacturer and he will send down a demonstrator, what they call a home economist or demonstrator, to show Mrs. Jones or Mrs. Smith how to operate that new automatic washer.

MR. WHITELEY: That is in the home?

MR. LEWIS: In the home.

THE CHAIRMAN: What I was getting at, do you arrange for demonstrations to be made on your premises of that kind with the manufacturer? Would a manufacturer, for example, make arrangements with you under which one of their new machines, new types of product, would be exhibited on your premises and they will send a man or woman to demontrate. Do you do that?

MR. LEWIS: Yes, sometimes.

MR. WHITELEY: Do you have co-operative advertising arrangements with any manufacturer?

MR. LEWIS: Yes, we do.

THE CHAIRMAN: There was just one question -- you may not care to answer it -- is the interest rate on deferred payments fairly standard?

MR. LEWIS: Yes, quite.

THE CHAIRMAN: I mean, across the Greater Toronto area?

MR. LEWIS: Some firms are lower than

others. You mean finance companies?

THE CHAIRMAN: Yes.

MR. LEWIS: Yes, some are lower. I would say they vary anywheres from, they will vary up to about 4%.

THE CHAIRMAN: On what, 4% difference?

MR. LEWIS: Difference, yes.

THE CHAIRMAN: What would the range be then?

MR. LEWIS: Well, different companies charge higher rates than others.

THE CHAIRMAN: I am not asking you what any particular company charges, but is there a difference of as much as 4% between the top and the bottom? What are the top and bottom figures roughly?

MR. LEWIS: Actual figures?

THE CHAIRMAN: Percentage rates, yes.

MR. LEWIS: Percentage? Well, I would say 8 to 12%.

THE CHAIRMAN: Is that regardless of the length of time that the credit runs?

MR. LEWIS: Regardless. Of course, 8 to 12 is actually 16 to 24.

THE CHAIRMAN: I was going to come to that but you have told me. You mean it is 8 to 12% on the total unpaid balance?

MR. LEWIS: Total unpaid balance. The customer starts paying --

THE CHAIRMAN: He pays it in instalments

so that actually if you took the whole period of the line of credit, it is only about half what he is paying interest on?

MR. LEWIS: That is right, they run very high.

MR. FAVREAU: Are the particular interest rates 1% per month or what?

MR. LEWIS: Oh, it is more than that. Each month 1% -- about that, yes, 1% per month, which would make it about 24% because you start paying from the first. You say 1% per month if you pay at the end of the year.

THE CHAIRMAN: What I think Mr. Lewis means, if you have, say, $200.00 unpaid, and that is to run for a year and you charge 12% or 8% as the case may be on the $200.00, that is added to the $200.00 making it $224.00, whatever it is, and that is divided into twelve equal payments spread over the year; so that in fact when it is called 12% on the unpaid balance, that is 12% on the unpaid balance at the time the purchase is made, and when the payments are made each month as you go along, in fact it is much the same as if the amount owing, spread over the year, was only half of what it is to start with, because by the last month there is hardly anything but you are still paying the interest on it.

MR. FAVREAU: You mean if I am paying $100.00, 12% would be $12.00? I would pay $1.00 a month irrespective of the difference?

MR. LEWIS: I will break it down much easier than that. You buy, say, a washer from us and there is an unpaid balance of $100.00. So the total on that would be with one company (they are very low in their rates) would be, say, $109.00. You pay for this $100.00, you pay $109.00.

THE CHAIRMAN: $9.00 interest?

MR. LEWIS: $9.00, but remember it would be 9% if you paid that $9.00 at the end of the year, but you start paying right from the first month.

MR. FAVREAU: But if you pay 12% on the balance each month you will wind up with $109.00 at the end of the year with 12%.

MR. WICKWIRE: Nothing more.

THE CHAIRMAN: That completes all the questions we have to ask, Mr. Lewis. Do you wish to make any observations yourself, anything that you care to add to what has been said this morning?

MR. LEWIS: No, I don't know. If there is anything you want to ask me I will gladly answer.

THE CHAIRMAN: I think we have exhausted the questions we have.

MR. LEWIS: I believe my observation would be that these -- I don't like to say these loss-leaders -- they don't do anyone any good. They do upset the apple cart, but we use them, and these list prices, suggested list prices, I don't care for them. They confuse the public.

THE CHAIRMAN: That perhaps leads to another

question.

MR. WICKWIRE: In what way do the suggested list prices confuse the public?

MR. LEWIS: Here is a standard list price right now, $449, and we sold for $199. Now, this is a concrete case right now.

MR. WICKWIRE: When you sell it at $199 are you selling it at a loss?

MR. LEWIS: No, sir, we still make a little money on it. Right now it is at the discount and we want to sell it.

MR. WICKWIRE: What percentage of your cost price did you make on it at $199?

MR. LEWIS: We make about $20.00, $25.00 on the set.

THE CHAIRMAN: And the list price is --

MR. LEWIS: $439.00. In fact that is one at $539.00 that we are selling at $249.00 right now. It is confusing. The people don't believe it and the manufacturer says, there is the suggested list price, $539.00.

THE CHAIRMAN: Well, if there were resale price maintenance and the list price had to be maintained, would you still say it was confusing?

MR. LEWIS: If the which?

THE CHAIRMAN: If there were resale price maintenance and the list price had to be observed by dealers, would you still say there was confusion?

MR. LEWIS: Well no, there would not be confusion there, if the list price had to be maintained by the dealer. Then if it is $539.00 a set, there it is.

THE CHAIRMAN: Does the confusion really arise by virtue of the fact that there are different prices, there are list prices and other prices such as yours?

MR. LEWIS: That is right. Suggested list price does not mean a thing any more.

MR. WICKWIRE: Do you say therefore in the cases which you have given us that the suggested list price is unrealistic?

MR. LEWIS: Certainly it is unrealistic.

THE CHAIRMAN: You mean it is far higher than it ought to be?

MR. LEWIS: Certainly it is far higher than it ought to be.

MR. WICKWIRE: What would happen in your opinion, Mr. Lewis, if it were more realistic?

MR. LEWIS: The public would believe us. When we say now: "Mrs. Jones, there is a very good item, there it is, $249.00, it is good value, but we don't want $399.00, we will give it to you for $249.00". "Why do you do that? Are you Santa Claus? What do you mean, it is $399.00 and you are giving it to me or selling it for $249.00?" Right away you create a doubt in their mind. "Here is a dollar bill for 60¢. Is it counterfeit or what is it?" Do you get me?

You are creating a doubt in their mind. "Why do you sell me a $399.00 refrigerator for $249.00? It is not worth $399.00 in the first place".

THE CHAIRMAN: But at this price you sell many more than you would at $399.00, don't you?

MR. LEWIS: You just don't sell any at $399.00.

THE CHAIRMAN: I mean, you do sell many more at $249.00 than you would be able to sell at $399.00?

MR. LEWIS: That is right.

THE CHAIRMAN: So the doubt in their mind does not stop them buying?

MR. LEWIS: No, that is right, it does not stop them buying but it puts them in a state of confusion, they don't know. "Now, you are going to save me $150.00? Well, I will go down to Joe's, maybe he will save me $160.00".

THE CHAIRMAN: Do you think that if a customer buys from you, say, at $249.00 and he goes down to Joe and finds he could have got it for $239.00 that he is usually very angry with you?

MR. LEWIS: No, they usually come right back and cancel the order and get their money back.

MR. WICKWIRE: I take it then, Mr. Lewis, from what you have just said, that you would agree with the resolution of the Toronto Retail Dealers, Appliance Dealers, which I will read to

you. It was passed on April 28th, 1954. This is the resolution:

"It is the opinion of the dealers "present where list prices are too "high, that the manufacturers immed- "iately adjust their suggested "list so as to bring back to the "buying public some semblance of "value so that cut-price dealers "cannot show such a difference be- "tween the manufacturer's list price "and their selling price".

MR. LEWIS: That is right.

MR. WICKWIRE: You would agree with that?

MR. LEWIS: Oh, yes, sure. For instance, our old Mix-masters, their list price is too high on that, altogether too high.

MR. WICKWIRE: On the price of Mix-masters?

MR. LEWIS: Certainly the suggested list price is too high, out of reason.

MR. WICKWIRE: Tell us something more about that.

MR. LEWIS: Well, right now the suggested price is $58.95. Now, maybe we do sell them a little too cheap at $39.95, but still we make a few dollars. Look at the spread, $58.95 to $39.95 on a well-known article. It just does not make sense.

MR. WHITELEY: What effect do you think would be produced if manufacturers were in a position to insist on the observance of these list prices?

MR. LEWIS: What effect would it have on me.

MR. WHITELEY: In general.

MR. LEWIS: In general? Well, it would slow down business to such a snail's pace that I believe I would even crawl out myself. I could not sell anything at list price. The public won't buy.

MR. WICKWIRE: What I think the Commissioner has in mind, if the manufacturer could maintain a price of $58.95, would you not still sell those articles by taking trade-ins?

MR. LEWIS: Oh, sure. Well, we would give them a phony trade-in allowance or something. But, remember, you are always sitting on a keg of powder when you do that, because they will catch us and say: "Now, you gave Mr. Jones a phony trade-in allowance. No more Mix-masters for you, you are through."

MR. WHITELEY: If the manufacturer is interested in volume, as I assume he is, what is your position going to be?

MR. LEWIS: What I can see, they want their cake and they want to eat it; they want to keep up -- I just happened to check on that

Mix-master. Some stores cannot operate unless they get 33 1/3 or 30%, some of the larger stores, they just must have that or they won't handle the item, and that is where the manufacturer is mad.

MR. WICKWIRE: Because their cost of operation is too high?

MR. LEWIS: That is right.

MR. WHITELEY: Or because they won't handle the line?

MR. LEWIS: They won't handle the line. They throw it out. The big stores have thrown out lines that they won't handle right now. The manufacturers are very, very upset about it. That is where you get your beefs I think.

THE CHAIRMAN: From your experience, Mr. Lewis, would you say that these substantial reductions in prices which you offer lead to a good many people purchasing articles which they would not be able to afford otherwise?

MR. LEWIS: Definitely, that is 100%.

THE CHAIRMAN: Do you think it widens the market considerably?

MR. LEWIS: It certainly does, anyone will tell you that.

THE CHAIRMAN: There have been some statements made to us to indicate that with regard to some articles of manufacture the net result is not an increase in total sales but a reduction, partly because of dealers not being

willing to handle the line because they cannot make a profit.

MR. LEWIS: No, I do not believe that.

THE CHAIRMAN: You would not know anything about that?

MR. LEWIS: No, all I know is we have had hundreds of people come in -- "Oh, floor polishers, General Electric, that price? Well, we will buy one". They won't pay $54.50 but they will pay $37.75. Look at the spread, look at the Mix-masters from $39.95 to $58.95. If it was only a dollar or two, but this spread is just out of proportion. I am just naming two articles. There are dozens of them.

THE CHAIRMAN: Thank you very much, Mr. Lewis.

---Adjourned until 2:00 P.M.

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40 Delegation from: Waddell Sound and Radio Limited.

Comprising: Mr. E.W.J. Waddell

---On resuming at 2.04 o'clock p.m. on Wednesday, 2nd June, 1954.

THE CHAIRMAN: The hearing will come to order.

One of those who was to appear this morning was, unfortunately, delayed and I think we will proceed with that business now.

The first item we will have this afternoon will be Mr. Waddell, of Waddell Sound and Radio Limited.

Mr. Waddell, you have no brief, you are not presenting a brief to us?

MR. WADDELL: No, I just wish to make some comments on various things.

THE CHAIRMAN: Would it be convenient for you to make some comments and then questions be asked?

MR. WADDELL: Yes.

THE CHAIRMAN: If that is the way you would like to proceed, that would be fine with us.

MR. WADDELL: There are one or two questions.

MR. FAVREAU: Would you give us your full name?

MR. WADDELL: Ernest William James Waddell. That is Waddell Sound and Radio Limited.

MR. WHITELEY: Where is your business?

MR. WADDELL: Windsor, Ontario.

MR. WHITELEY: You might give a little background.

MR. WICKWIRE: If I might ask a few questions, I think I can shorten it.

What is the address of your establishment?

MR. WADDELL: 1279 London Street, Windsor.

MR. WICKWIRE: What is the nature of the business you have?

MR. WADDELL: Television, radio, appliances.

MR. WICKWIRE: And how long have you been in that business?

MR. WADDELL: 18 years.

MR. WICKWIRE: And did you start 18 years ago in your present establishment?

MR. WADDELL: Same address, only the store was ten feet wide and 28 feet long. Now, it is 96 feet wide and 128 feet long. It covers 15,000 square feet.

MR. WICKWIRE: I believe you have some pictures showing the growth of your business. Perhaps you would produce them and explain them.

MR. WADDELL: This (indicating) is when we first started there, we operated from this radio service and public address system.

MR. WHITELEY: What year was that?

MR. WADDELL: 18 years ago. This store is ten feet wide, 28 feet deep. We paid $10 a week rent when we first started. Then, we took over here (indicating) where the shoemaker used to be, and paid $30 a month rent there.

MR. WHITELEY: Adjoining premises?

MR. WADDELL: Yes. Then we went on 107 feet

here (indicating) and remodelled the building. We built ourselves.

THE CHAIRMAN: You extended the existing premises?

MR. WADDELL: Yes. I bought this building here (indicating) and paid $1,750. We put an extension of 107 feet on the back of the building and remodelled the front. Here (indicating) is where we added on another 25 foot frontage, and 75 foot depth. We added on here (indicating) once again the width of the buildings on the other side, which gives me 96 foot frontage on London Street.

Mr. WICKWIRE: How many employees do you have?

MR. WADDELL: Approximately 50, 52. We have 13 trucks on the road.

MR. WHITELEY: Service trucks?

MR. WADDELL: Service and delivery. Anything we sell we service. These (indicating) are individual studios which are all finished differently, every one. This (indicating) is in panelling. This (indicating) is in knotty pine. Every one is finished differently.

MR. WHITELEY: These are for television demonstrations?

MR. WADDELL: Yes. This here (indicating) is where we approve television sets. They are put in there and run for approximately 48 hours.

MR. WHITELEY: Do you test every set you sell?

MR. WADDELL: Yes, they run around 48 hours. We average 95 to 100 sets being run at the same time.

These (indicating) are service rooms.

Over a thousand telephone calls come in through th

switchboard. This (indicating) is the stock room. Our printing department (indicating). This (indicating) is the main floor for the stoves. The entrance to the store (indicating). Washrooms (indicating). This (indicating) is the demonstration of aerials. This (indicating) is a car we gave away a couple of years ago.

MR. WHITELEY: Have you continued that?

MR. WADDELL: No. There was a group of merchants giving away a house up on Ottawa Street so, to counteract that, we gave away a car.

The CHAIRMAN: I presume you are the president of the company?

MR. WADDELL: President and sole owner.

THE CHAIRMAN: All except a couple of other directors?

MR. WADDELL: Yes. Very little stock.

THE CHAIRMAN: They have qualifying shares?

MR. WADDELL: That is right.

MR. WICKWIRE: DO You have any warehouse facilities in addition to this?

MR. WADDELL: Yes, we do. Back of the store in one large corner we have a large warehouse. We can store approximately seven carloads of merchandise. We have a loader for stocking. We have to have our merchandise shipped in down there.

MR. WICKWIRE: You deal in appliances, I take it?

MR. WADDELL: Yes, White goods and television and radio.

MR. WICKWIRE: You have, since the inception of your business?

MR. WADDELL: That is right.

MR. WICKWIRE: Have there been any changes in your buying policies since you started in business, up to now?

MR. WADDELL: Oh, considerable. When we first started there was no need, or means, to buy quantity purchases. Whereas, now, to compete with other dealers and show a profit, naturally we have to buy in quantity to get price.

MR. WICKWIRE: You do buy in large quantities?

MR. WADDELL: Yes. It is carloads of refrigerators. The same with television at times.

MR. WICKWIRE: How often do you purchase carloads of television sets and refrigerators?

MR. WADDELL: Now we are in the white goods season that merchandise is rolling in pretty steadily. Each manufacturer will have a car rolling in, from a car to two cars.

MR. WICKWIRE: You deal in appliances, I know; but are they brand names, nationally advertised?

MR. WADDELL: Oh, definitely. We work with the main lines.

MR. WICKWIRE: Nationally known?

MR. WADDELL: Nationally known lines.

MR. WICKWIRE: Now, in all instances is there a suggested selling price on those?

MR. WADDELL: Yes, there is a suggested list on all our merchandise. We do have specials where we a able to buy in quantity and get a better price and we, in turn, pass that on to the customer in what we call

trade-ins. We call it over-allowance but it is allowed on trade-ins. On white goods, naturally, you have a percentage of people who have refrigerators and trade in their old refrigerators and we pass that on to our customers. We work on a percentage, what it costs us to operate, and what is left over is passed on to the customer.

MR. WICKWIRE: Give us some illustrations. Take a floor polisher?

MR. WADDELL: We started on floor polishers previous to July 1st, 1953. We had purchased 23 floor polishers in the eight months previous to July 1st, 1953. From July 1st to March 1st, 1954, we purchased 1700. We merchandised our polishers at $44.95 - that is, cash and carry, they are not able to put them on the books and there is no delivery. The same applies to kettles and irons. No commission is paid to the salesmen. The salesmen do wait on the customer when they come into the store and, naturally, they are shown through the store and shown other merchandise. It does pay off in sales of other merchandise.

I know of a case on Monday evening. A salesman was showing a customer a polisher and sold a 21-inch television set to the customer. We have others. On a sale last night we had people in from Sarnia, 100 miles away.

We run two-for-one sales on washers. In our Saturday night ad we run full page ads on the back of the Windsor Star. People come from as far away as

Sarnia to take advantage of these sales. We would sell a washer for cash and an ironer. We make our regular mark-up on the washer; we do not on the ironer. We sell very few ironers at any time. We use that for a two- for-one sale.

MR. WICKWIRE: When you say you made the regular mark-up on the washer, did you make a mark-up as suggested by the manufacturer?

MR. WADDELL: No, you have the over-allowance on a lot of washers. The over-allowance will take care of your premium and still give you approximately a third profit on the washer.

MR. WICKWIRE: Approximately a third?

MR. WADDELL: Yes.

MR. WICKWIRE: We were speaking of floor polishers, which you bought for what, in quantity?

MR. WADDELL: The new price -- previous to that they were running around $39.00, sometimes a little less, sometimes better than that. We were getting $44.95.

MR. WICKWIRE: What was the suggested price?

MR. WADDELL: $54.95. We had one ad I might mention. We moved 57 polishers when we first introduced it, on a cash and carry basis, which gave us a profit of $356.00. The ad cost us $24.00. When you advertise any of these articles --

MR. WICKWIRE: This was a special in G.E.Polishers?

MR. WADDELL: That is right.

MR. WICKWIRE: When you advertise a special do you have the polishers?

MR. WADDELL: Oh, definitely. We had at one time

last fall, over 300 G.E.Polishers alone in the stock, which represents 11 or 12 thousand dollars in polishers.

MR. WICKWIRE: There has been some suggestion that dealers in many instances advertised appliances at a cut rate figure and then do not have any,or only one or two when the customers come into the shop. In other words, a so-called nailed down type of advertising. Can you give us any information on that?

MR. WADDELL: We have the polishers in stock. We have G.E. and two other makes of polishers in stock. We keep those polishers at all times. Last fall we got rather low on them and we pulled our ad, we eliminated the ad, which was only a small tie on the bottom of our regular ad.

MR. WICKWIRE: Is there any of that type of thing going on in Windsor by competitors, of false advertising?

MR. WADDELL: Well, I have not checked around that much. There was a small article in one of the Windsor papers where one store advertised they were charging $4.50 for a service warranty. If you wanted a year's service on the polisher it cost an additional $4.50. They were advertising the polisher at $44.95. We give a year's service but we will not charge it and we will not deliver it.

MR. WICKWIRE: On the larger types of appliances, do you do some financing?

MR. WADDELL: We carry all our own accounts.

MR. WICKWIRE: Would you care to suggest any volume?

MR. WADDELL: Approximately 2500 accounts we carry. It runs around 350,000, 375 carried on our books.

MR. WICKWIRE: You say you give the customer a year's guarantee on every appliance that you sell?

MR. WADDELL: Yes, on white goods it is a year, television-radio it is 90 days' service. The only case where we would not include the service would be with a low discount, that is, a low price television. There is the odd time we have to charge the service but that is only on one particular set at the time, right now in our store.

MR. WICKWIRE: In that instance, is the customer told there is no service with it?

MR. WADDELL: Oh, yes. The salesman sells the service warranty. It is up to the salesman to sell it.

THE CHAIRMAN: They can buy with or without?

MR. WADDELL: Yes. As a matter of fact, the salesman's commission is only half if he sells without that service warranty.

MR. WICKWIRE: Are the salesmen on salary plus commission?

MR. WADDELL: Salary plus commission.

MR. WICKWIRE: How many salesmen of your total staff do you have?

MR. WADDELL: We have seven salesmen working on the floor. We have a staff of 50 people.

MR. WICKWIRE: And --

MR. WADDELL: Seven salesmen on the floor all the time, plus the sales manager.

MR. WICKWIRE: How many of the 50, do they work in shifts?

MR. WADDELL: No, their regular hours. We close

at six o'clock in the evening.

MR. FAVREAU: The others are the servie men and the truck drivers?

MR. WADDELL: The others are the service men and truckers and credit managers.

MR. WICKWIRE: What, in your opinion is the beggest factor in creating a sales volume, is it creative selling, so-called, or is it lower prices?

MR. WADDELL: Well, it is creative selling right now. We do considerable advertising. We are in the local papers every night in Windsor and on the radio station there. Approximately a month ago, we started doing, more or less, institutional advertising and advertising 1954 merchandise instead of -- we have a particular make of refrigerator of which we have quite a stock of 1953 models. We give $100 for old refrigerators or ice boxes, or $100 off the list, which is not a regular discount.

This is the back page of the local Windsor Star. We started advertising in our Saturday night ads, the new Frigidaire, the new Crosley, with the cooler on the door.

MR. WICKWIRE: Perhaps you would like to file those as exhibits?

MR. WADDELL: They did not work out the same. These are three different pages (indicating).

THE CHAIRMAN: We will mark those as exhibits.

MR. WADDELL: This advertisement of April 24th is advertising the polisher.

THE CHAIRMAN: Is this the Windsor Star?

MR. WADDELL: Yes. We start with the Ice-Maker. The Frigidaire, Westinghouse. We ran these ads three Saturday nights in a row.

THE CHAIRMAN: The prices of these are all the manufacturers' suggested list price?

MR. WADDELL: Yes, with the exception of the polisher and the kettle.

These three Saturday night ads did not draw the same as the specials we have. The last few Saturday nights, we have run two-for-one ads which brings our volume back.

MR. FAVREAU: You sell two items as one unit, for one given price?

MR. WADDELL: The washer, we give the ironer.

THE CHAIRMAN: These three pages of advertising, described as being from the Windsor Star of April 24, May 1st and May 8th of 1954, have been filed together and will be Exhibit T-5.

---EXHIBIT T-5: Three full page ads of Waddell Sound and Radio Limited, the Windsor Star of April 24, May 1, and May 8, 1954.

MR. WADDELL: Here are the following Saturday nights, May 22nd.

THE CHAIRMAN: That is a different type of advertising?

MR. WADDELL: Yes.

THE CHAIRMAN: That is what you call the two-for-one?

MR. WADDELL: Yes.

THE CHAIRMAN: When you say two-for-one, do you mean you put the full price for the large item and they get the other one free?

MR. WADDELL: Yes. Here is the washer here. (indicating).

MR. FAVREAU: They get it automatically?

MR. WADDELL: Yes.

THE CHAIRMAN: Are those both May 22nd?

MR. WADDELL: No, the previous Saturday as well. This would be the 15th of May and that is the 22nd.

THE CHAIRMAN: Two pages of advertising described as being from the Windsor Star, bearing dates May 15 and May 22, 1954, filed and marked as Exhibit T-6.

---EXHIBIT T-6: Two full page advertisements from the Windsor Star of May 15th and May 22nd, 1954.

MR. WICKWIRE: What effect, Mr. Waddell, does selling a branded, nationally advertised article at a discount have on that article?

MR. WADDELL: I do not think I understand, what is that now?

MR. WICKWIRE: Does the fact you sell a nationally advertised brand of appliance at a price under the suggested list price have any effect on the reputation of that article among the customers?

MR. WADDELL: Of course, brand names. My feeling is, merchandising in volume is using brand names. That is all we handle, brand name merchandise. The customer has confidence in them.

MR. WICKWIRE: He has confidence in it?

MR. WADDELL: That is right.

MR. WICKWIRE: Does the fact that the customer can purchase that article below the suggested list price shake his confidence in the article in any way?

MR. WADDELL: No, I would not say so.

MR. WICKWIRE: Would you say he is happy to be able to purchase it at a reduced price?

MR. WADDELL: Oh, very definitely, they are happy to get brands at that price.

MR. WICKWIRE: Is the customer misled in any way by purchasing it at a reduced price?

MR. WADDELL: Well, we stress in the Windsor paper the particular article we are advertising. We might show a particular refrigerator and advertise it at $259.00. If the picture of the refrigerator is that of another model, we will state the model we are advertising is number so and so and that its price is $339.00. We carry that in our ads and stress the truth in advertising. We generally try to bring that right out because there is a lot of misleading advertising. We have that down in Windsor, misleading advertising.

MR. WICKWIRE: That is the point; is there some misleading advertising, and what are the types you know about in Windsor?

MR. WADDELL: Well, we had one dealer down there started, more or less, a club. If you paid $50 you were supposed to be able to buy merchandise at wholesale prices. It did not work that way. The prices might have been wholesale prices in 1953 when the merchandise

came out but now the articles are specials. He was making a very good profit on the deal. It did not last very long.

MR. WICKWIRE: He advertised that fact in the papers?

MR. WADDELL: Yes, you had to pay $50 to join and qualify, and then for a year you bought merchandise at wholesale prices. But, as I say, it was the original cost from months back.

MR. WICKWIRE: Do you know of any instances where dealers have offered appliances for sale, and, then, when the customers have come into his store they find only one article with a "sold" tag on or something of that nature, and then, they try to sell them other merchandise not advertised?

MR. WADDELL: The salesmen sometimes do that. You may have merchandise on the floor at a low price. Take television, we have a particular make which sells at $199, for which you have to buy a base and pay extra for the service.

MR. WICKWIRE: You have the machines?

MR. WADDELL: Oh, definitely. But the salesmen are selling, if at all possible, a console at $299. We will be, more or less, trying to nurse those 21 inch sets. Possibly we had 15 in stock, whereas we have a much larger stock of the console, which is a better deal for the customer anyway. The console set, amongst other things, has a large speaker.

MR. WICKWIRE: What did you do when it was permissible for a manufacturer to set the resale price on

his products?

MR. WADDELL: Well, then, it was more or less demand for merchandise at that time. We had the customers. Now, we have to go out after the customers.

MR. WICKWIRE: Go out after the customers now. It has changed from a seller's market to a buyer's market?

MR. WADDELL: Very definitely.

MR. WICKWIRE: Did you ever deal extensively in trade-ins or allowances?

MR. WADDELL: We have an awful lot of that down there, especially in television. We have been in the television business about five and a half years now, approximately that time, since television started in Windsor. We started with our 7 inch sets, 10 inch, 12, 14, 17. I would say today that we have trade-ins in eight out of ten sales.

MR. WICKWIRE: You are taking an 8 or 10-inch set in for 21-inch set?

MR. WADDELL: Yes.

MR. WICKWIRE: You make an allowance?

MR. WADDELL: Yes. That is the way a lot of our specials come in. We buy the old models of television sets -- we will have our new models, approximately the latter part of July or August -- and we are able to allow, in some cases, maybe $200 for a 10-inch set. A 10-inch set, of course, is not worth that amount of money but we are able to allow that. I think the sets carry a list price of $499 -- at least, that is what they were when they were first introduced -- and we are retailing

them now, with a trade-in, at $299, so we will allow that for a trade-in.

MR. WICKWIRE: Your customer is getting an advantage?

MR. WADDELL: Oh, definitely.

MR. WICKWIRE: Has there been any increase or growth of dealers or outlets in your area in the appliance trade?

MR. WADDELL: Yes. Windsor is similar to all the other cities. Any vacant store, an appliance store took over.

MR. WICKWIRE: In any vacant store an appliance dealer took over?

MR. WADDELL: That is right. Some of them have gone by the wayside now.

MR. WICKWIRE: The new appliance dealer?

MR. WADDELL: That is right.

MR. WICKWIRE: Can you give us approximate figures of the number who were in the business when you started and the number today?

MR. WADDELL: No. I would not know what the figures would be on that but I would say there is an increase of maybe 60 percent, 60 to 75 percent, the increase in the number of appliance stores.

MR. WICKWIRE: What reason can you suggest for the tremendous increase?

MR. WADDELL: Of course, everybody, when television came along, figured they were going to get rich on television. There was a big demand for it, and the same for refrigerators. There was a shortage right

after the war of refrigerators. The demand for television sets has tapered off, as has been the case with refrigerators. That is why we have had stores going by the wayside up there in Windsor.

MR. WICKWIRE: There was a big demand for it. Was there anything else? Did the price have anything to do with it, your suggested price of these articles?

MR. WADDELL: Not after the war there was not. We were getting $299, plus service warranty, for 7-inch television sets when they were first introduced.

MR. WICKWIRE: Why are not you getting that today?

MR. WADDELL: Of course, for $199 we have a 21-inch set.

MR. WICKWIRE: Today?

MR. WADDELL: Yes.

MR. WICKWIRE: Why are not you getting it on the smaller one today?

MR. WADDELL: There just isn't the customers to want to tie that amount of money up in a 7-inch set.

THE CHAIRMAN: Does anybody want a 7-inch set?

MR. WADDELL: It is surprising the demand for them at $39 or $40. We seldom have any in the store.

THE CHAIRMAN: You re-sell these trade-ins?

MR. WADDELL: Oh, yes. We rebuild them. We have our own spraying rooms, drying rooms.

MR. WICKWIRE: What has happened to the new people who have gone into the appliance business, are they all doing well?

MR. WADDELL: No, I would not say they are doing well. There are different factors which would make it

difficult for them. They have not the experience or the money behind them. They handle their papers through finance companies. The finance companies are tightening up, which is one big factor. The finance companies are tightening up and watching their credit more closely. We are doing the same thing. We are very tight on our credits.

MR. WICKWIRE: Would you say there are some in your area who should not have been in the business anyway?

MR. WADDELL: I would say yes.

MR. WICKWIRE: Would you care to give the Commission any idea of the volume of business that you do?

MR. WADDELL: Well, it is considerably over a million a year. We have a population in Windsor itself of around 120,000 and the surrounding towns bring it up to around 170,000 -- that is within a radius of about 50 miles.

MR. WICKWIRE: Have you ever, since you have been in business, sold any appliances at below your laid down cost?

MR. WADDELL: There might be the odd one where we have purchased merchandise and the price has come down. There would be, on some of the merchandise on the floor, but, mot buying the merchandise and then selling it at below cost.

MR. WICKWIRE: Would you regard it as distress merchandise, you were over-stocked, something of that nature?

MR. WADDELL: We have had one television company which took a terrific drop on price and we had some of that merchandise on the floor. No doubt we paid more for that.

MR. WICKWIRE: You had to sell it in order to move it?

MR. WADDELL: Yes, because we would be making purchases from that company on the new prices, so, naturally we had to sell the merchandise on the floor at the new prices.

MR. WICKWIRE: In instances, you have sold appliances as specials at a loss on cost in order to direct traffic into the store?

MR. WADDELL: No, we do not merchandise that way.

MR. WICKWIRE: Pardon?

MR. WADDELL: We do not merchandise that way. On the polishers and kettles, we are getting as close to our cost as on any merchandise we retail, and that is still giving us a certain amount of profit.

THE CHAIRMAN: You mean, Mr. Waddell, the only occasions on which you sell at a price which is below the laid down cost to you would be cases in which you have to do that in order to sell the article at all. What I am getting at, you do not adopt as a policy, even in single instances, the practice of selling a certain article at below your laid down cost?

MR. WADDELL: No, we do not adopt that policy.

THE CHAIRMAN: Only in the type of case you have mentioned, where you have acquired a number of articles

and the price of them has dropped?

MR. WADDELL: That is right.

THE CHAIRMAN: You are stuck with them and you have to unload them?

MR. WADDELL: Yes, that is right.

MR. WICKWIRE: Just one more question, Mr. Waddell: What is your cost of doing business, what mark-up do you have to have as the cost of doing business?

MR. WADDELL: I do not know. It is over 20 percent. I would not want to divulge it. It is well over 20 percent.

MR. WICKWIRE: Thank you.

MR. FAVREAU: You meet that cost of operation and make a profit, notwithstanding that you give this allowance on these trade-ins?

MR. WADDELL: That is right.

THE CHAIRMAN: What do you regard, Mr. Waddell, as a normal gross profit on the sale of articles of this type?

MR. WADDELL: We are running around -- down around 30 percent right now.

THE CHAIRMAN: 30 percent of your selling price?

MR. WADDELL: Yes.

THE CHAIRMAN: A while back you said something about having over-allowances which enabled you to sell below the manufacturer's list price and still have about a third?

MR. WADDELL: That is right.

THE CHAIRMAN: Did you mean a third of what you

actually sold at?

MR. WADDELL: The overall average runs about 30 percent. There are cases you are running at 33, 34 on some items.

THE CHAIRMAN: After eliminating these over-allowances you speak of --

MR. WADDELL: Premiums.

THE CHAIRMAN: -- the price at which you would sell would still allow you 30, 33 percent on your selling price as gross proft?

MR. WADDELL: That is right.

THE CHAIRMAN: That is what you regard as a normal mark-up?

MR. WADDELL: We are back to about 30 percent. Three or four years ago when you sold a television set you also sold a television aerial. Now, we are giving them away. It is coming down all the time. It keeps dropping a little, but the gross is around 30 percent now.

THE CHAIRMAN: In these advertisements from the Windsor Star there are some fairly substantial premiums or extra articles given on your two-for-one basis?

MR. WADDELL: That is right.

THE CHAIRMAN: Does the combination of the two still allow you 30 percent on the gross?

MR. WADDELL: Approximately, yes.

THE CHAIRMAN: Even though there is no charge for one article at all?

MR. WADDELL: Yes. We do not figure on making a profit on the ironer which we give with the washer.

We have the profit on the washer.

THE CHAIRMAN: Would you still have 30 percent on the two of them?

MR. WADDELL: Our gross is running around that, taking the gross of the overall business. That takes in service. On our gross volume that is what we are running at.

MR. FAVREAU: In your advertisement of the 29th of May you advertise a 1954 21-inch television model, original price $349.95, at $199.95. Is that a manufacturer-promoted sale?

MR. WADDELL: Yes. What has happened is that the manufacturer has unloaded a few hundred sets a few weeks ago. As stated in the ad the base is extra -- that is $23.95 -- and also the service warranty, which on a $199.00 set would be $15.00.

THE CHAIRMAN: You buy in fairly large quantities, do you receive a sufficient reduction in price from the manufacturer or is it because you get a sufficient reduction in price from the manufacturer that you are able to do these things and still have a 30 percent gross profit?

MR. WADDELL: Oh, I would say yes; in most cases yes.

THE CHAIRMAN: 30 percent or 33 percent gross is, I think, usually looked on as the normal mark-up without any gift merchandise?

MR. WADDELL: You will not get that on your 1954 merchandise. You will not have an over-allowance to end up with your gross profit around the 30 percent

mark. When we were advertising our latest models of Philco, Westinghouse, and Servel refrigerators, you did not have enough in there to have an over-allowance, to give $50 or $75 for an old refrigerator.

THE CHAIRMAN: On the new merchandise for 1954, buying in quantities, do you get a better price?

MR. WADDELL: That is standard to all dealers. If you buy 25 units, you get a certain price, but if you buy a carload, you get a better price, but even then you may only have $40 or $50 to give for an old ice box and still have your profit.

MR. WHITELEY: Mr. Waddell, do I understand it correctly, that all of the advertising you have done so far has been, on the major items, the list price of the manufacturer?

MR. WADDELL: We advertise his suggested list.

MR. WHITELEY: I notice in this advertisement of May 8th you have an advertisement for a Frigidaire stove and it states, "$299.75 and your old range". What is this $299.75 price?

MR. WADDELL: On that particular model, that would be your list price on the range.

MR. WHITELEY: What has the old range got to do with it?

MR. WADDELL: Well, in a lot of cases, unless that is a $339.00 -- If that is a $339.00 --

THE CHAIRMAN: You might check it with the ad, Mr. Waddell.

MR. WADDELL: I am not sure of that model.

THE CHAIRMAN: That one might not be the list

price?

MR. WADDELL: It could be the $339.00 model. I just forget the price of that.

MR. FAVREAU: That is taking into account about $40 as a trade-in for the old range?

MR. WADDELL: That is right.

THE CHAIRMAN: It is likely, then, in that particular instance, the Frigidaire stove advertised at $299.75, that the $299.75 is not the actual list price?

MR. WADDELL: I would not say.

THE CHAIRMAN: I was thinking the form of the ad would seem to indicate it was not the list price because you would not ask for the old stove as well as the list price.

MR. WADDELL: No. I think it is $339.00. That is correct, $339.00. That is what I thought.

MR. WHITELEY: In that particular instance, the price was not the suggested list?

MR. WADDELL: No. We have $40 in there for the old stove.

MR. WHITELEY: Do you think your policy of giving these specials, by adding on another item or giving a trade-in of the size you have indicated, produces the result in the mind of the consumer that a difference in price would?

MR. WADDELL: You have copies of three ads we ran on Saturday nights. We are in the paper every night but on Saturday nights we advertised the newest refrigerators -- that is, your two-way Philco, Frost-free Westinghouse, etcetera. We tried that for three

Saturday nights in a row and our volume was down on Monday. Our volume on the Monday ordinarily runs about two-thirds of our Saturday business. The last two Saturdays we have swung back into this other type of advertising because our salesmen requested us to do so, they were down. It is much better. We are going to this two-for-one, as we have done before. We went to this deal on Saturday night; of course, we are in the paper every night, but only for 3, 4, 5, 6, 7, columns.

THE CHAIRMAN: You mean, your experience indicates this type of advertising, which you call two-for-one, is more attractive to the purchasing public than the other type where you advertise a new machine at the regular price?

MR. WADDELL: Yes, definitely, in the way times are now. A couple of years ago I would have been out of the appliance business if I thought I had to merchandise the way I do today. I started with service. We stressed service. When we first got television, we brought chaps out from England who had experience. We brought all our technicians from England and we stressed service and built our business on service. But, that has to go by the wayside now. Our customers want to be able to buy the merchandise at our place but they want the same price at our store as they can buy it from a small store that does not provide service. In some cases, we may get $10 or $15 by stressing service, and some people will pay it, but some will not.

MR. WHITELEY: Are your competitors selling merchandise at less than the list price?

MR. WADDELL: Yes. We try to get as much out of the bill as we can but, in a lot of cases, we have to turn down the sales because we have that cost of service, we have to stand behind our merchandise. The population of Windsor is only 120,000, which is a little different to merchandising in larger centres.

THE CHAIRMAN: Thank you, very much, Mr. Waddell. I would like to express our appreciation to you for coming in from Windsor to express your opinions.

MR. WADDELL: I am sorry I could not make it this morning. They did not raise the ceiling more than 300 feet at London and I had to do a little scooting to get in.

THE CHAIRMAN: Have you any other comments you would like to make before leaving?

MR. WADDELL: I do not think so.

There was another copy of an ad. This is a copy of the Centennial ad we ran, which might be of some interest. It is not merchandise. This is the first edition.

THE CHAIRMAN: This is not an advertisement of your merchandise?

MR. WADDELL: More or less as an institutional ad.

THE CHAIRMAN: I think we will mark it as an exhibit, page from the Windsor Daily Star entitled "Waddell's Centennial News", Saturday, May 15, 1954. That will be marked as exhibit T-7.

---EXHIBIT T-7: Advertisement of Waddell Radio and Sound in the Windsor Daily Star on Saturday, 15th May, 1954.

That will complete then, the presentation by Mr. Waddell.

We will have a short break at this time.

--- A short recess.

Delegation from: The Canadian Association of Radio-
Television & Appliance dealers
and
The Ontario Association of Radio-
Television & Appliance Dealers Inc.

COMPRISING: W. Hodgins,

E. F. Black,

R. C. G. Wilson.

THE CHAIRMAN: Gentlemen, the hearing will resume.

This is a presentation on behalf of the Ontario Association of Radio-Television & Appliance Dealers Inc., who very kindly stepped aside at two o'clock in order that Mr. Waddell, who had been unfortunately delayed this morning, could make his presentation this afternoon.

We would like to have the names of those appearing on behalf of the Association.

MR. HODGINS: Mr. Wilf Hodgins.

MR. BLACK: E. F. Black.

MR. WILSON: R.C.G.Wilson.

THE CHAIRMAN: For the Ontario Association or the Canadian Association?

MR. HODGINS: Both, sir.

THE CHAIRMAN: Are you presenting the brief, in the first instance?

MR. WILSON: Yes.

THE CHAIRMAN: The practice we have followed is that the brief be read with whoever is reading it

making comments as it is read or at the end of the reading. Then, any other members of the delegation may make such comments as they see fit, and then we will ask questions. If there is anything you wish to say about any particular part of the brief you may do so when you come to it, or after you finish.

MR. WILSON: Thank you, Mr. Chairman.

"This Brief is submitted by The Canadian Association of Radio-T elevision & Appliance Dealers and The Ontario Association of Radio-Television & Applianc e Dealers Inc., - the latter Association is a Provincial Component of the Canadian Association.

What is a loss leader: - It is difficult to obtain agreement among the retail dealers as to the definition of a Loss Leader. While there is a practical difficulty in creating such a definition there is, nevertheless, a general understanding of this phrase within the trade as a device which involves a selling practice tending toward vicious competition. In this submission the word 'dealer' will be frequently employed and it would be well, perhaps, to define what we mean by that word. By 'dealer' we mean any person or company engaged in the sale of radios, Television Sets and Electrical Appliances generally, at retail.

Price Structure

It is perhaps not generally understood that

"prior to the ban on resale price maintenance dealers at no time adhered too closely to the Manufacturer's suggested list price. This is not to say that all dealers ignored suggested list prices, but the sale of electrical appliances generally at lower than the suggested list price was frequent and widespread, particularly when the dealer had a surplus inventory. Perhaps the main difference between the situation at that time and that of to-day was the fact that then cut prices were not widely advertised, whereas today they are. Moreover, today's advertising of appliances generally involves a considerable amount of misrepresentation in advertising of what is known as 'Nailed Down' goods, and other forms of advertising that tend to be misleading and fictitious. 'Nailed Down' merchandise refers to an article in the store bearing a 'sold' tag, and one which is advertised in the paper at a very special price, which, as a matter of fact was never intended for sale. This kind of advertising is becoming so frequent that it again is destroying the buying public's mind, and seems to be destroying confidence in all dealers. If all dealers were made to advertise honestly and a heavy penalty imposed for misrepresenting their merchandise it would be the first step in helping to

"improve our condition.

When a responsible dealer finds competitors indulging in advertising practices which he considers unethical and even designed to mislead the public he, naturally, turns to the manufacturer for some disciplinary action, as not only his status as a dealer is involved, but the good name and goodwill of the manufacturer as well. This, however, today, usually proves to be a source from which help is not available. The reason for this is that the ban on Price Maintenance has made the manufacturer normally fearful of removing his lines from a dealer's store even because of misleading advertising, poor service, and many other legitimate reasons other than price-cutting. The manufacturer tends to fear that any action on his part would be attributed to the dealer's price policy and that the dealer would charge him under the Combines Investigation Act with attempting to interfere with the dealer's resale price policy. It must be realized that the disappearance of Price Maintenance took away a familiar guide to the buying public and this has been further complicated by the public's inability to judge the wide variety of prices on merchandise offered today. A specific example might be two Television Sets made by the same manufacturer

"and even bearing the same model and type, but varying considerably in their performance. Not being familiar with the details of construction involved the public has little chance of assessing the value of the two sets when there is such a discrepancy in price, as the best set of the two might be offered for sale at the lower price, even if the buyer saw the sets at two cut-rate dealers' stores.

Service

One aspect of the current situation is illustrated forcibly by the number of telephone calls that have been received from the buying public at the offices of our Association. Invariably these telephone calls originate from purchasers who have bought equipment on which service is important, and, who, on application to their cut-rate dealer for service, are informed that the purchase price was so low that the dealer is not prepared to undertake the provision of any service. This regrettable development from a service standpoint is also highlighted in another way and that is the increasing number of dealers who have gone out of business as a result of the competitive price-war in which they have been engaged, being obligated to meet competition. This means that the very

large number of people who have purchased articles from such dealers are deprived of their normal source of service on a line of merchandise which in general does require service. This, of course, particularly applies to Television Sets. To confirm our statement on the number of dealers going out of business it might be well to mention that the Association's 1954 Convention ..."

which, incidentally, was held on the 1st of May.

"...mailing list resulted in some 75 returned notices, which could not be delivered because of the fact that the addressees were no longer in business.

The combined impact of deterioration in service by many cut-rate dealers and the current price war has produced a most unfortunate effect on the buying public, and not unnaturally the public has tended to lose faith in our ethical dealers, partly because of their inability to obtain adequate service from the dealer from whom the purchase was made and partly because of the lack of any criterion by which to judge merchandise offered for sale. To return for the moment to the question of public faith in the dealer we would like to quote another specific example. Not long ago, on a Thursday, a cut-rate dealer advertised a certain refrigerator at a particularly low price. This was

"followed on Saturday by another dealer's advertisement of the same make and model but at $5.00 reduction in price. On Monday of the following week the original cut-rate dealer inserted a large advertisement offering the same merchandise at a further reduction of $5.00. The annoyance of the person who purchased a refrigerator from the original advertisement, only to find that a few days later he paid $10.00 more than necessary, can be readily understood.

Comparative Prices and Advertising.

One of the developments of to-day's advertising that tends toward misrepresentation is the widespread use of comparative prices. Thus there is a tendency on the part of some dealers to illustrate a given model of an appliance and quote a list price that is perhaps two years old, together with the offering price. The effect, of course, is that the list price quoted is actually fictitious today and the customer is, therefore, led to believe that he is obtaining merchandise on terms that are not nearly as advantageous as he has been led to believe by the advertisement.

We would like to illustrate two points, which we consider most unethical -

First, one of our price-cut dealers advertised as follows:

" '40 to 55 percent off list on all articles illustrated in the advertisement.'

Undoubtedly, you know as well as the trade in general that the top discount given the dealers on major appliances of the type advertised is 30 to 33-1/3 percent. This, to our way of thinking, is deplorable and greatly misleads the public as to the amount of discount our dealers receive.

Secondly, many advertisements contain the headline:

'No Money Down'

When a customer enters many of the cut-rate dealer's stores using this type of advertising they are finally sold on a certain model; then the salesman informs them 'of course, it will cost you extra for delivery, service, etc.'. He then advises the customer that 'it is necessary to visit our Personal Loan Dept. before we can send you the model in question.' He then takes the customer to a desk already in the Sales Office and he is obliged to comply with the terms as laid down by the personnel of the Loan Dept. In other words, he has to sign papers whereby his furniture or car can be used as collateral, and on many of these deals an exhorbitant figure is added for carrying charges. We believe that this is a most unsavory way of doing business and

"eventually will lead to the customer losing not only the article purchased but there is a strong possibility of his car or furniture being repossessed, if he gets into financial difficulty.

Prices to Dealers

In the past the dealer bought from the manufacturer at a trade discount from a suggested price set by the manufacturer. The trade discount allowed the dealers always included consideration of the fact that his margin of profit should be sufficient to enable him to supply to the purchasers reasonable and sufficient service as indicated by the particular type of merchandise that was being sold. While the method of selling by the manufacturer still continues to involve the trade discount from a suggested list price the price at which the merchandise is being offered today by the unethical dealer tends often to preclude the possibility of adequate service or even any service at all being given by the legitimate dealer, even though he is desirous of rendering that service in order to maintain his obligations to his customers.

The small dealer is moreover falling a victim to the current price war because of his inability to buy in sufficient quantities to obtain the lowest price for the merchandise.

"This imposed an almost insurmountable handicap to the small dealer since he cannot possibly sell his merchandise at prices which compete with the dealer whose volume is sufficient to allow him to purchase in larger quantities.

Because of the accent on prices alone today dealers generally consider that the quality of merchandise being supplied by many of their manufacturers has definitely deteriorated. This they attribute to the race between manufacturers to place products on the market which are attractive, principally, from a price standpoint. It can be readily seen that this development further accentuates the service aspect of today's situation since a poorer quality merchandise inevitably requires an even higher standard of service than carefully made equipment, and the public is not getting the value that they would if prices were more stable, so that the manufacturer could make a better line of merchandise.

Dealers' Problems

At the present time many buyers have a problem on their hands in that they purchase merchandise at or near the suggested list price. Now this same article is advertised today at such a low price that it pays them, if they bought it on credit terms, to return

"their purchase to the dealer and buy a new model from the cut-rate dealer. If this practice becomes prevalent it will no doubt shake the economy of our country.

It is a known fact that many dealers today price their inventory at the lowest figures as advertised in the paper, not at the price they paid, as in many, many cases the advertised price is lower than their cost.

Under the present Combines & Investigation Act any dealer is permitted to football any produce to the detriment of the manufacturer, dealer and the dealer's customers. The cut-rate dealer advertises much of the merchandise sold at a very low figure, often only to get customers into his store with no other thought than to sell some other manufacturer's merchandise. This has a bad effect on the purchaser who already owns a similar model, also on the person who goes into the store with the idea of buying a certain line and then finds he cannot even see same, as the dealer never even had a franchise to sell the article advertised.

Criminal Code

Section 406 of the Criminal Code provides a method of dealing with persons who indulge in untrue, deceptive or misleading advertising.

"We note, however, that sub-section 2 of Section 406 provides in its last sentence an escape clause for the advertiser. While we do not consider ourselves competent to take a specific position in regard to the effect of this last sentence we bring it to the Commission's attention for their consideration, in view of the possibility that it may tend to nullify the general effect of Section 406.

We understand from one of the strong supporting organizations in favour of 'No Price Maintenance' that they seek more service on the articles they purchase and at a further reduced price. Speaking for our Retail Dealers in Canada we are sure that unless some relief is soon coming many more retail dealers will be forced to close their place of business within the next few months, and service, naturally, will be less available to the public.

We beg to suggest to this Commission that they take seriously the remarks made by Mr.E.G.Burton, President of Simpson's Limited and Simpson's-Sears Limited. On May 28th when speaking to the Officers of the Canadian Life Insurance Association at Montebello he said 'that the ban on resale price maintenance is causing unnecessary chaos in a large section of

" 'responsible and dependable retailers, and the legitimate small dealer is really the backbone of our distributing system so far as nationally advertised lines are concerned.'

Employment

At our recent Convention one of the price-cutting dealers made a remark, we believe, in the presence of Mr. T. D. MacDonald. This remark was to the effect that his volume of business in a year amounted to $4,250,000.00 with forty employees. He then came out with an advertisement in the paper with a similar statement. Upon investigation we are informed by responsible parties that in our industry it should take at least sixty employees to intelligently handle such a volume of business, so if the dealer in question is handling his business with forty employees he is either driving them or not giving service to the public -- we believe the latter to be the case, or possibly both.

We believe that the Commission will agree that it is economically desirable that maximum employment be maintained in this country. We also point out that the Radio, Television and Appliance industries in Canada employ a very large number of people, both in the production and sale of these

"commodities. It is our opinion that the amendment to the Combines Investigation Act which banned the use of resale Price Maintenance has produced a situation which is resulting in the loss of employment in this trade generally. We, therefore, respectfully suggest that both in the interest of the buying public and all employers and employees engaged in the production and distribution of this merchandise that the Act be amended in such a way as to permit some moderate control of prices on the merchandise which bears the trade name of a manufacturer. The only practical control of this type, as far as we can see, must be that which rests in the hands of the manufacturer.

Respectfully submitted."

THE CHAIRMAN: Do you wish to make any comments, Mr. Hodgins?

MR. HODGINS: No. If you wish to ask questions, I will be glad to answer them.

THE CHAIRMAN: Do any other members of the delegation wish to say anything?

MR. WILSON: Not at this time, Mr. Chairman. We will do ours in the brief that follows.

THE CHAIRMAN: Mr. Wickwire?

MR. WICKWIRE: Mr. Hodgins, in the first paragraph of your brief, you say:

"...the trade as a device which involves a selling practice tending towards vicious competition."

What, in your opinion is the type of vicious competition that you complain of?

MR. HODGINS: I would say, sir -- possibly I should have said more om behalf of the smaller dealers quite contrary to the last dealer, who is what we term a large dealer -- the smaller dealer cannot meet the prices, he has not the volume of business to start with.

MR. WICKWIRE: Perhaps I could shorten it this way, by saying: Then, in your opinion, any dealer who sells an article below the suggested retail price is a vicious dealer?

MR. HODGINS: No, sir.

MR. WICKWIRE: That is what I wanted to get at, how far you go.

MR. HODGINS: The thought is, where a dealer is selling, say, below the cost of his merchandise, to get some other article put over, or that he has only $3.00 or $4.00 profit on the article, that is what we term a vicious dealer in our industry. Not just below the suggested list price, nobody is selling today at the suggested list price.

MR. WICKWIRE: Why do you think that is, Mr. Hodgins? Is it because the suggested list prices are unrealistic and too high?

MR. HODGINS: No.

MR. WICKWIRE: In your opinion?

MR. HODGINS: No, I do not think so. I do not

think the suggested list price is too high to give the public the service that the dealer is intended to give.

MR. WICKWIRE: I refer you to a resolution passed by the Ontario Association of Radio-Television & Appliance Dealers, Inc., dated the 28th of April, 1954, at a meeting in St. Margaret's Hall.

MR. HODGINS: That is the Toronto dealers.

MR. WICKWIRE: Resolution I:

> " It is the opinion of the dealers present where list prices are too high, that the manufacturers immediately adjust their suggested list so as to bring back to the buying public some semblance of value so that the cut-price dealers cannot show such a difference between the manufacturers' suggested list and their selling price."

MR. HODGINS: That would be true if it is working, but the cut-price dealers -- There are many dealers throughout the province who do not agree with that and I would get my neck in a sling if I answered that one way or the other, if you understand me.

THE CHAIRMAN: You have to tread on eggs, so to speak?

MR. HODGINS: That is right.

MR. WICKWIRE: Next, you say:

> " Perhaps the main difference between the situation at that time and that of to-day was the fact that then cut-prices were not widely advertised, whereas today they are."

That is in the second paragraph.

MR. HODGINS: That is right.

MR. WICKWIRE: That prices were not as widely advertised as they are today. Did not that give an advantage to a customer who was an aggressive bargainer to get a reduced price?

MR. HODGINS: The purchaser has the same advantage today in a good many cases, but in those days they were done at individual times and they were not running a war as they are today.

MR. WICKWIRE: "Moreover, today's advertising

> of appliances generally involves a considerable amount of misrepresentation in advertising of what is known as 'Nailed Down' goods, ..."

Is that general or is it just the unscrupulous ones who are doing it? How general is it?

MR. HODGINS: Among certain elements it is bad. I believe Mr. Black, who is following, will give you instances of individual cases. It is bad. It is particularly bad in this city.

MR. WICKWIRE: In the Toronto area?

MR. HODGINS: Yes.

THE CHAIRMAN: Perhaps we might get that a little clearer. The language of this sentence is sweetened when it says:

> "...to-day's cost of advertising of appliances generally involves a considerable amount of misrepresentation in advertising of what is known as 'Nailed Down' goods,..."

The word "generally" would seem to indicate most of the advertising is misleading. It is a pretty broad statement. Do you mean it to go that far?

MR. HODGINS: I do not think I would be very far out.

THE CHAIRMAN: Most of the advertising?

MR. HODGINS: Generally all these -- is misleading and misrepresented.

MR. WICKWIRE: You do not suggest because a dealer advertises an appliance at the old list price that that is misrepresentation?

MR. HODGINS: No.

MR. WICKWIRE: If he has the articles.

MR. HODGINS: That is right, sir. Very right. I believe, sir, if I might add there, the dealer who is trying to use the public okay, gives them service, tries to do the right thing, he is not advertising very much today.

MR. WICKWIRE: You suggest --

THE CHAIRMAN: Not doing much business either, probably.

MR. HODGINS: How true.

MR. WICKWIRE: You suggest in the next paragraph where you are talking about the dealer, when he is running into this sort of competition, turning to the manufacturer for some disciplinarian action, that the manufacturer feels helpless to provide it.

MR. HODGINS: That is right.

MR. WICKWIRE: The manufacturer can cut a dealer off for anything except reducing prices.

MR. HODGINS: So I understand from your department, but when I tell them that they say they are afraid to do it. When I ask them why, they say your department, the dealer writes to Ottawa and he says that the manufacturer has cut him off on account of the price situation and serious things happen right away. We have two cases of manufacturers right now under the set up, and as we know it has to be proved.

THE CHAIRMAN: What has happened?

MR. HODGINS: The books were all taken of this one manufacturer, I do not know about the second, but I do know in the case of one manufacturer, his records and so forth were seized.

THE CHAIRMAN: Has anyone been prosecuted?

MR. HODGINS: No, but I believe there are two under way now.

THE CHAIRMAN: Not prosecutions?

MR. HODGINS: Investigations, put it that way, sir.

THE CHAIRMAN: They might blow up entirely.

MR. HODGINS: Well, I hope they do.

MR. WICKWIRE: I have nothing to do with the Commission, except I happen to be counsel trying to assist them.

MR. HODGINS: I have to tell the truth as I see it, when you ask me these questions, and sometimes it hurts.

MR. WICKWIRE: The manufacturer can lay down a servicing policy which, if not followed, would enable him to cut off a dealer.

MR. HODGINS: You are the second man who has told me that and I wish you would go with me to the manufacturers some day. I cannot sell it.

MR. WICKWIRE: What I am suggesting, Mr. Hodgins, is that perhaps the manufacturers do not want to do it.

MR. HODGINS: I believe at one time they did not. The manufacturers are here in the room but I think they are losing so much money and they can see what is going to happen to the future of the industry, that they do care. That is my personal opinion.

MR. WICKWIRE: You believe the manufacturers are losing so much money they do not care?

MR. HODGINS: They do care. I have been told that by presidents and vice-presidents of large manufacturers I have talked to recently.

MR. WICKWIRE: You have not looked at their volume returns?

MR. HODGINS: Oh, I have seen some lovely statements, even of their losses.

MR. WICKWIRE: I am talking about manufacturers of appliances.

MR. HODGINS: They tell me they are.

MR. WICKWIRE: Do you believe it?

MR. HODGINS: Well, I was brought up a long time ago in a different environment to today and I have to believe what I am told until I find out differently.

THE CHAIRMAN: Mr. Wickwire was not telling you, he was asking you.

MR. WICKWIRE: I suggest, on a few figures I have seen, the trend is the other way. Their volume is up.

If they are losing money on it, I cannot disagree with you.

MR. HODGINS: No, I agree with that.

MR. WICKWIRE: On the question of service, do you think the individual has the right to require service or not on any article he purchases?

MR. HODGINS: I definitely think he is entitled to service.

MR. WICKWIRE: If he wants service he must pay for it, and if he does not want it?

MR. HODGINS: What about the good dealer who is keeping a Service Department up? If they all got into that category the dealers who are trying to give service, they would have to let their service men go.

MR. WICKWIRE: I heard one who I thought was a good dealer who gave us some information just before this. He told us about the sort of service he maintains. He must have all customers who want service.

MR. HODGINS: Yes, and there are many dealerss in Toronto the same way.

MR. WICKWIRE: You do not suggest if a person does not want to have service he should have to pay for it?

MR. HODGINS: That is right. If the buyers all took that attitude all the places in a very short period would be up against it. Anyone who has a TV set, they won't wait an hour for service, and if the manufacturers cannot keep their service departments, what is going to happen to the manufacturers?

MR. WICKWIRE: I understand that there are, in

this area, as in other areas, service companies who do nothing but service machines of this type; is not that so?

MR. HODGINS: That is so.

MR. WICKWIRE: Does not the customer ask if he can buy the appliance at a reduced price whether he gets service with it?

MR. HODGINS: I wouldn't say so. If you have a good service, the dealer tries to sell it.

MR. WICKWIRE: If a customer is buying a machine at a reduced price, does he ask if he gets service on it?

MR. HODGINS: I imagine, from the number of calls I receive at the office, they cannot get service and they want to know why. That is on what I base that answer, on the calls I get.

MR. WICKWIRE: Do not the manufacturers, in some instances at least, guarantee service for a period on the product?

MR. HODGINS: They guarantee replacement of parts but the dealer does the service.

MR. WICKWIRE: He likes to be told, the manufacturer, if something does go wrong, through the dealer?

MR. HODGINS: He used to.

MR. WICKWIRE: Does not he prefer it?

MR. HODGINS: I do not know. Since the prices have been as they are, they get written direct by these people a good many times, so they tell me.

MR. WICKWIRE: But a customer who purchases one of these machines at a greatly reduced price, not buying

service, if something goes wrong, he can go to a service company or somewhere else and have the machine serviced. There is nothing to prevent that?

MR. HODGINS: The --

MR. BLACK: I think I should answer that question. I am in the retail business. The average dealer will not service another dealer's product. On Television they are too busy. If they buy the article -- television is what you are discussing right now -- without service, it is pretty difficult for the customer to get service from a service set up.

MR. WICKWIRE: Even from service companies?

MR. BLACK: That is right. They are not very interested in servicing other people's sets.

MR. WICKWIRE: I was informed, perhaps incorrectly, Mr. Black, there are companies who do nothing else but service appliances.

MR. BLACK: You are talking -- I thought the discussion was on television.

MR. HODGINS: I was going to explain that to you. There are, for instance, Frigidaire and Kelvinator. They have their service taken care of by certain companies and if all people receive the same service from one of them that I received personally, I would say back to the dealer pretty quick. Anything but satisfactory. That is my personal experience.

MR. WICKWIRE: That is your personal experience?

MR. HODGINS: Yes.

MR. FAVREAU: Mr. Wickwire, are you speaking of people privately engaged in the business of servicing

as such at a cost?

MR. WICKWIRE: That is right.

MR. HODGINS: Frigidaire and Kelvinator do that.

THE CHAIRMAN: That is Frigidaire's and Kelvinator's own arrangements, by which the manufacturer provides the service?

MR. HODGINS: Yes, through a company.

THE CHAIRMAN: And for a period that service is provided free of charge to the customer?

MR. HODGINS: On the guarantee period.

THE CHAIRMAN: What Mr. Wickwire was asking: Are there not service companies who make a business of performing some of this work on appliances for a consideration?

MR. HODGINS: There are a few.

MR. WICKWIRE: On page 3 you say:

> "To confirm our statement on the number of dealers going out of business it might be well to mention that the Association's 1954 Convention mailing list resulted in some 75 returned notices..."

Were there too many dealers, Mr. Hodgins?

MR. HODGINS: Do not ask me that. I am a dealer's man. That is the way I make my living.

MR. WICKWIRE: You are probably like the late President of the United States, you do not choose to answer.

MR. HODGINS: I do not think I should, and I do not think you would want me to when you realize my position.

MR. WICKWIRE: Perhaps I can ask you this: Was there a great growth in the number of outlets in the Metropolitan Toronto area?

MR. HODGINS: All over since the war.

MR. WICKWIRE: All over since the war, in appliance dealers?

MR. HODGINS: That is right.

MR. WICKWIRE: Then, coming to Resolutions 5 and 6 which were passed at the meeting of the 142 Toronto dealers in St. Margaret's Hall on April 28th, 1954. First of all, Resolution number 5:

> " We suggest that all manufacturers set up a policy on the sale of television sets with or without home service and that the dealers be obliged to inform the public in advertising that the set carries home service or not."

I take it some dealers were not telling them it did not?

MR. HODGINS: That is right. We think it should be definitely announced to the purchaser whether they buy with the service or not.

MR. WICKWIRE: "We suggest to the manufacturers that their new policy state clearly to the dealers that all TV sets should be sold and service charged extra."

MR. HODGINS: For the protection of the public, yes.

THE CHAIRMAN: Now, may I ask one question about number 5. That is the one in which they wanted a policy established with regard to with service or without

service. Is it the intention of that resolution to indicate that the members of the association feel that either course should be open to the customer, that he should be able to buy with service or without service, as he sees fit, and he should be told which he is getting, that the dealers want the customers to have the choice.

MR. HODGINS: I think the clause following that -- stated -- am I right -- that it should be sold with service -- that is particularly applicable to TV service. In the estimate of most dealers TV sets should be sold with service. Whether the sets will be made better in the future or not, I do not know, but up to today the public are very much upset at times, and quite often it is not the set when the repair man gets there. It may be the condition of something around the area. The fact the public are so determined, means they will call up the dealer at night and try and get their repair men out. They think in order to have one policy and have it right, it should be sold with service; but if it is not, if the manufacturers do not do that, then the public should be sold with or without service.

THE CHAIRMAN: What is the attitude of the dealers toward this question of service being a necessary ingredient in the sale, or optional with the purchaser? As I understand it, what is really meant, in so far as television is concerned, the dealers feel the article should be purchased with service?

MR. HODGINS: That is right.

THE CHAIRMAN: With regard to some other appliances that is not so important and perhaps they would not require it?

MR. HODGINS: It would not make such a difference.

MR. WICKWIRE: Resolution No. 7, Mr. Hodgins:

> " We suggest that all manufacturers get out a new franchise with teeth in it and that the manufacturers live up to the terms of their franchise and that they make the dealers do likewise."

What is meant by that?

MR. HODGINS: Well, the manufacturer comes up with a franchise and he says he is giving him a discount which includes, as we have intimated in our brief, an amount to take care of the service. At one time we could not have a franchise unless we had a suitable showroom and salesmen who were well posted on the merchandise we had on our floor. Today, unfortunately, they are selling at every price and no effort is being made to get back into creative selling, as I heard it mentioned a little while ago, because they have not the time.

MR. WICKWIRE: Perhaps this refers to the former, in the brief, where you say that when you complain to the manufacturer today he is afraid to do anything?

MR. HODGINS: That is right.

MR. WICKWIRE: May I show you a copy of the resolutions passed by both the parent Association and the Ontario Association? If you will identify them we will have them marked as exhibits.

MR. HODGINS: Yes.

THE CHAIRMAN: They will be Exhibits T-8, two pages of resolutions. The first page are resolutions passed by 142 Toronto dealers at a meeting in St. Margaret's Hall on April 28th, 1954; and the second is headed: "Resolutions on Tuesday, May 4, 1954, at our Annual Meeting at the Royal York Hotel". Those will be filed and marked as Exhibit T-8.

--- EXHIBIT T-8: Two pages of Resolutions.

MR. WICKWIRE: Now, Mr. Hodgins, on page 3 your brief states:

> "Not long ago, on a Thursday, a cut-rate dealer advertised a certain refrigerator at a particularly low price. This was followed on Saturday by another dealer's advertisement of the same make and model but at $5.00 reduction in price."

MR. HODGINS: Under the first dealer?

MR. WICKWIRE: Yes.

> "On Monday of the following week, the original cut-rate dealer inserted a large advertisement offering the same merchandise at a further reduction of $5.00. The annoyance of a person who purchased a refrigerator from the original advertisement only to find that a few days later he had paid $10.00 more than necessary, can be readily understood."

I am thinking of the same purchaser who was annoyed at

that transaction -- and probably if I had been the purchaser I would be annoyed myself: How much greater would his annoyance have been if he had been forced to buy that machine at the suggested list price?

MR. HODGINS: Well, I would have to leave that to you. I know what I would have felt in the industry but that would not have been right. I am quite convinced, as a result of a number of telephone calls I have had, that the legitimate dealer's working discount from the manufacturer to the purchaser should be passed on, because, in the overall picture I am quite sure we pay a little more sometimes for an article -- it applies to me and I imagine it might to you -- but when we get home and the dealer gives us good service, we forget all about it. I think that is what would happen.

MR. WICKWIRE: At the same time you demand a resale price maintenance, I take it?

MR. HODGINS: That is right.

MR. WICKWIRE: How, under resale price maintenance, can you pass on the benefit to a purchaser who purchases in volume?

MR. HODGINS: In the quality of merchandise I sell. I have been told by many dealers that the quality of merchandise from the manufacturers is not up to the standard as it used to be, they are making models on a price basis.

MR. WICKWIRE: Well, not manufacturers of nationally advertised lines?

MR. HODGINS: I have one in mind in particular.

MR. WICKWIRE: Whose product is not as good as it was?

MR. HODGINS: No, they will not switch; they have nothing to switch about. They are getting their legitimate money for their goods, and,as you say, their statements are very happy to read. It is we dealers who are suffering.

MR. WICKWIRE: It is not the manufacturer who is cutting the price, it is the dealer who is cutting the price?

MR. HODGINS: That is very true.

MR. WICKWIRE: You think a customer is entitled to get the benefit of a purchase from a large volume dealer who buys at a discount?

MR. HODGINS: Yes. If he buys at a greater price he is entitled to the saving.

MR. WICKWIRE: That is to the advantage of the customer, the public?

MR. HODGINS: Yes.

MR. WICKWIRE: How can the public get that advantage under resale price maintenance?

MR. HODGINS: You must remember the small dealer had large houses to compete against before the cut-rate dealers got going in this city and the customers considered the personal service they received from their dealer, whom they knew, was worth the difference in the price.

MR. WICKWIRE: Was not the system -- call it what you like, policy, principle -- of cut-rate merchandising in effect even when the manufacturer could maintain the

price?

MR. HODGINS: That is right.

MR. WICKWIRE: Under a system of trade-ins or allowances?

MR. HODGINS: Yes, at times they had a surplus stock.

THE CHAIRMAN: In other words you did not really have a resale price maintenance in effect?

MR. HODGINS: No, not before. There were always cut-rate prices, but there was not a war on. It appeared mostly when there was a surplus, which happened some time ago. But, that has not happened of late because the market after the war was such that the dealer could sell everything he could obtain and he did not have to do that.

MR. WICKWIRE: You suggest on page 4:

> "...profit discount given the dealers on major appliances of the type advertised is 30 to 33-1*3 percent."

It has been suggested to us on a number of occasions -- and I think on one occasion this morning -- that that percentage goes up as high as four --

MR. HODGINS: Did not he say on his special buying, sir?

MR. WICKWIRE: It may be on his special buying.

MR. HODGINS: That is what I took from his statement.

MR. WICKWIRE: On quantity buying.

MR. HODGINS: On quantity buying. If he buys two or three carloads; hundreds and hundreds could not

buy a carload of merchandise and store it in their establishments. That is what he would get. Lots of dealers right here in the city.

MR. WICKWIRE: If a quantity buyer can get a discount of 40 percent you are perfectly happy that that can be passed on to the customer?

MR. HODGINS: Correct.

THE CHAIRMAN: Is that a fair discount for him to get?

MR. HODGINS: I would not like to say. I don't buy any more. I used to.

THE CHAIRMAN: It is pretty difficult competition for the little fellow?

MR. HODGINS: Yes, it is difficult competition, but we cannot have it all one way.

MR. WICKWIRE: On page 5, Mr. Hodgins, you say:

> " It is a known fact that many dealers to-day price their inventory at the lowest figures as advertised in the paper. Not at the price they paid, as in many, many cases the advertised price is lower than their cost."

Now, the expression "lower than their cost", used in your brief, how do you determine cost?

MR. HODGINS: The price has been advertised at times at a lesser price than they paid for the article.

MR. WICKWIRE: Than the laid down cost to them?

MR. HODGINS: Yes.

MR. WICKWIRE: You are not including anything in there for overhead?

MR. HODGINS: No, no.

MR. WICKWIRE: How general is that practice?

MR. HODGINS: I do not know, sir. I cannot tell you truthfully. I have been told that by one or two dealers today.

MR. WICKWIRE: You do not know whether --

MR. HODGINS: You asked me how general it is, I do not know. It is done by one or two.

MR. WICKWIRE: It is done in one or two instances?

MR. HODGINS: Yes, they tell me that.

MR. WICKWIRE: Do you know in those instances where it has been done what the purpose of it was? Was the man overstocked?

MR. HODGINS: That would be one of McCarthy's auestions -- "I do not give away secret information". I have been called in in two or three cases by dealers and asked what they should do. I suppose it is up to the government to see them set straight on that.

MR. WICKWIRE: I take it your position is this: If the purpose of it was to get people into his establishment to buy other merchandise you do not approve?

MR. HODGINS: That is a very wrong thing to do.

MR. WICKWIRE: On the other hand, if the purpose was to unload stock he could not sell at the suggested price or any other price, he was trying to salvage what he could out of the stock, that would be normal practice?

MR. HODGINS: He would have to do it. If he has trouble with his bank he would have to do it. That is what was done prior to price maintenance being passed.

THE CHAIRMAN: The Association does not object

to distress selling of that kind?

MR. HODGINS: No, we do not want to see any dealer suffer; sometimes you make a mistake in your buying and you do not sell as readily as you thought you would, and, naturally you have these articles on hand.

MR. WICKWIRE: There is a sentence on page 6 that I do not quite understand:

> " We understand from one of the strong supporting organizations in favour of 'No Price Maintenance' that they seek more service on the articles they purchase and at a further reduced price."

Would you explain that?

MR. HODGINS: I suggest to you the person I have in mind is the representative of the Canadian Retail Federation Convention. Around the first of May I read where Madam President had that in mind, that the dealer should extend more to the public, the articles they sell should be a better quality of merchandise and should be sold at a lower price than they are paying today.

MR. WICKWIRE: That is the reference you made?

MR. HODGINS: Yes.

MR. WICKWIRE: Thank you.

You have referred the Commission on the same page to remarks made by Mr. E. G. Burton, President of Simpson's Limited and Simpson's-Sears Limited on May 28th. From your experience, do you know anything about stencilled private brands?

MR. HODGINS: Yes, I know they are sold and that

the Simpson Company and the Eaton Company, and many other companies have their own private brands.

MR. WICKWIRE: Do you know of any cases of a manufacturer selling a given product, or marketing a given product under his own brand name and having the same product marketed through, say, Simpson's under another stencil?

MR. HODGINS: I did in the past; I don't know whether it is being done so much now.

MR. WICKWIRE: At a greatly reduced price in relation to the trade name article?

MR. HODGINS: No, but there was always a difference. I am thinking now of radio. I come from London and when I was in business I bought the over-run from a certain manufacturer who made the set for both Eaton's and Simpson's. They ran the cabinet through the machines for the radios they sold to Eaton's and Simpson's and what they sold under their own trade name were hand rubbed. That is the difference we had to talk about.

MR. WICKWIRE: Are the machines not the same?

MR. HODGINS: The chassis was.

MR. WICKWIRE: The quality was the same?

MR. HODGINS: Except for the cabinet.

MR. WICKWIRE: The durability was the same?

MR. HODGINS: The chassis is what speaks for that. The working parts of the machine.

MR. WICKWIRE: Is not the stencilled article sold in competition with the regular article at a greatly reduced price?

MR. HODGINS: I do not know, I cannot answer that.

MR. WICKWIRE: If it is sold at a greatly reduced price over the regular manufacturer's article, does it not give the seller a great advantage over the dealer in the regular article?

MR. HODGINS: Not on the same basis. We had no trouble selling the article in competition with Simpson's -- it was Simpson's in London with whom we were in competition. We sold it on a quality basis in the instance I gave you a few minutes ago.

MR. WICKWIRE: It has been suggested to me that the Inglis Company make a washing machine which is sold under the name of Inglis?

MR. HODGINS: Yes.

MR. WICKWIRE: It has also been suggested that that same washing machine is sold in Simpson's under the name Kenmore. Do you know whether or not that is the same?

MR. HODGINS: I know nothing about it.

MR. WICKWIRE: What would be the effect, Mr. Hodgins, under a system of retail price maintenance on a dealer's ability, who did not have a stencilled machine, to compete with the regular brand?

MR. HODGINS: Any dealer will sell a regular brand on a quality basis and the fact that the public are very much better acquainted with the brand line than they would be with any stencilled line.

MR. WICKWIRE: You do not think there would be any difficulty in that respect?

MR. HODGINS: No, I do not think there would be difficulty in meeting that competition.

THE CHAIRMAN: Mr. Hodgins, the companies who stock these stencilled lines must have some reason for doing so?

MR. HODGINS: Dollars and cents, sir.

THE CHAIRMAN: They find they can do business with these stencilled lines?

MR. HODGINS: They are handled mostly by the larger department stores.

THE CHAIRMAN: They are able to sell stencilled lines all right?

MR. HODGINS: Yes.

THE CHAIRMAN: Or they would not stock them.

MR. WICKWIRE: Now, towards the end, Mr.Hodgins, your suggestion is that:

> "...in the interest of the buying public and all employers and employees engaged in the production and distribution of this merchandise that the Act be amended in such a way as to permit some moderate control of prices on the merchandise which bears the trade name of a manufacturer."

I would like to refer you to what the President of the Canadian Association of Consumers says on this matter:

> "Primary interest of consumers is to buy the most and the best for the least, ..."

Do you agree with that?

MR. HODGINS: I agree with that, mostly the least.

MR. WICKWIRE: You agree with that.

> "That consumers should be perfectly free to buy or refrain from buying where, when or what, from whom they choose. Competition that produces variations in prices of goods between one article and another in different stores is the consumer's indication of the immense protection she is receiving through the workings of a free economy."

Do you agree with that?

MR. HODGINS: To a point. I do not think there is any industry in our fair land today which is affected so much by service as we are, and that is why we keep harping on that point all the time.

MR. WICKWIRE: Thank you.

THE CHAIRMAN: Does any other member of the delegation wish to add anything to the presentation which has just been made?

MR. WILSON: Not to that particular brief.

THE CHAIRMAN: If those are all the questions that will complete the presentation of this brief by the Ontario and Canadian Associations.

Delegation from: Eddie Black Limited.

Comprising: Edward F. Black, President and Managing Director.

R.C.G.Wilson, LL.B., Counsel.

THE CHAIRMAN: We will proceed to the next presentation, which is that of Eddie Black Limited.

Mr. Black, are you ready to proceed?

MR. WILSON: What we propose to do, Mr.Chairman: I have a brief which I propose to read, and then, we may make a few remarks. We have some examples we wish to present with illustrations. Then, Mr. Black, who is probably more informed on the matter than I ever wi will be, will answer the questions of counsel and the Board.

THE CHAIRMAN: That is the normal procedure. That will be perfectly satisfactory.

If you will proceed, then, with the brief.

In starting are there any others in this delegation than there were in the last?

MR. WILSON: No, Mr. Chairman, just the two of us.

THE CHAIRMAN: Very well.

MR. WILSON: Mr. Chairman and members, this is a brief, copies of which have already been filed, over the signature of Mr. Eddie Black, President of Eddie Black Limited.

Before reading the brief, I would like to hand out some of the examples with which we will deal

particularly.

We join with Mr. Hodgins in what he has said about the dealers. If there is any one thing with which we are particularly concerned, and which we hope these hearings will eliminate, it is this: This company is concerned and anxious to see something done in the recommendations which will eventually follow from this Commission about eliminating what we consider to be the latent and preconceived fraud and misrepresentation which is being practiced on the public today by certain dealers in the retail appliance trade. We will deal with some of the examples in a few minutes. I now propose to read the brief:

> " The Management of Eddie Blacks Limited, an electrical appliance company incorporated under the Laws of the Province of Ontario and carrying on business in the City of Toronto and immediate suburbs, ..."

I may add we have done so for well over 24 years.

> "...is pleased to accept the invition of this Commission to present its views on the matter of 'Loss Leaders.'
>
> It appears to us that no useful purpose can be served in attempting to define a 'Loss Leader'. The name is merely a catchword to a sales gimmick, the effect of which in the last few years has been to greatly confuse the public but not necessarily to the public's detriment - caused consternation amongst the electrical appliance dealers

and some concern to manufacturers of refrigerators, stoves, television and radio units, etc.

However, it is our blief that there is nothing new about this problem -- it has existed in the past under such names as 'Fire Sale'; 'Consumer Sales';'Warehouse Sale'; 'Inventory Clearance Sale'; 'Liquidation Sale'; and many others. Neither do we attach any significance to the fact that an isolated dealer, whether large or small, or a group of dealers, should see fit to sell a product to the public at a loss. This is a dealer's right under our system of free enterprise and we have no desire to forfeit this right to a Governmental body by reason of legislation. At times it is sound business practice to unload at a loss or a near loss to the public, a product whether of brand-name or not, for which the demand is falling off, or by reason of technical improvement is, or about to be made obsolete. It is advisable at times to resort to such practices in an occasionally seasonal or declining 'buyer market', in order to avoid the heavy overhead such as storage costs, insurance and general financial charges associated with this type of business and of which this Commission and the public generally, may not

"be aware.

It is to be recognized that the chaotic condition in the retail electrical appliance business, brought about by the increasing practice of competitive brand-name 'Loss Leader' is peculiar, and likely to remain so, to the large metropolitan areas and perhaps distances of about two hundred miles from them. Rural areas are not generally affected, but at the same time, the problem and the consequences are the same in any large city of Canada."

Put it this way: This Commission, I am quite sure, as it travels throughout the country, will learn very little in Vancouver or Montreal which it has not already learned here in Toronto.

THE CHAIRMAN: I suggest then, we stay at home.

MR. WILSON: Mr. Black reminds me I left out Windsor. I think he is going to comment on Windsor later on this aftern oon.

"DEALER PROBLEM:

Basically, it is a dealer problem. The small dealer is the one who is bound to suffer and perhaps be replaced by a new kind of retailer, basing his business on quick turn-over for cash, but with less profit per unit, and in the main, cornering the bulk of a current buyer market and realizing a

" substantial profit based on volume. In the City of Toronto, for instance, there may be a weekly current demand for 1000 refrigerators which would net the retailer a profit of $100.00 each. We might assume that this demand would be distributed equally amongst ten dealers who would each net $1,000.00."

THE CHAIRMAN: Do those figures work out correctly?

MR. WILSON: I think so, Mr. Chairman.

THE CHAIRMAN: Would not you either have to have 100 dealers or give them $10,000 each?

MR. WILSON: 100 dealers.

"However, through the medium of a 'Loss Leader' dealer, he may advertise the same unit for $210.00, realizing only $10.00 per unit. Figures might indicate that perhaps 90 percent of the current demand for a given period will channel through this one new type dealer, thus, profit of 900 units would be $9,000.00 against the normal average of ten units sold at $300.

BACKGROUND FOR PRICE WAR:

This condition will exist favourably until another 'Discount Dealer' will offer the same unit or a similar model, usually a brand-name and not always a competitor's model, at say $205.00.

The effect is that the other dealer's

"sales are cut in an extreme manner and dissatisfaction results.

POSITION OF MANUFACTURER

From the point of view of the manufacturer, other than complaints from its other nine dealers, it is out nothing. Under almost all circumstances the manufacturer receives its price and to some extent, may well benefit from the effect of the advertising between cut-rate dealers and the sudden splurge from the buying of its product by the public. This condition continues to exist for this particular manufacturer until the inevitable happens, that is, one of its competitors, through one of their dealers, and heavy advertising, under-cuts the first manufacturer. The ground work is then laid for a price war which limits the profit of the retailer to the extent that the margin of profit is barely sufficient to take care of such items of overhead, as rent, salesmen's salaries; commission, advertising, financing, delivery, and above all, SERVICE. With the exception of the item 'service', the public without a doubt has the benefit of any price war, whether it's known as 'Loss Leader' or any other name.

THE PUBLIC & LOSS OF SERVICE

We believe it important to point out that

"the public, while confused by the daily change of prices, generally lose nothing other than confidence in their regular dealer, but sacrifices 'service' on the purchased product which most Discount Houses are unable to offer under the terms of the manufacturer's guarantee.

Many of the small dealers unable to bear the financial strain of such competition, end up bankrupt and as a result the consumer has little or no possibility of future services, since the dealer from whom he bought the product is now out of business.

LOSS LEADER - A SALES GIMMICK:

It is suggested that a 'Loss Leader' is an article which is actually sold to the public at either its cost to the dealer from the manufacturer, or sold to the public at a figure less than the dealer paid for it from the manufacturer. This practice can and does exist on small items such as electric kettles and irons, all the way up to expensive items such as television, stoves and refrigerators. The retail gimmick being to funnel the current demand of consumer buying to the dealer's premises, and as a result, the buyer is then encouraged or switched to another product."

In defining Loss Leader I think a great deal

depends on the definition of the loss, loss of what? When we are referring to loss, what are we referring to? Is it loss of goodwill or loss of monetary value, and loss to whom? Is it to the manufacturer, the dealer or the intermediate jobber.

"OVER CROWDED MANUFACTURING INDUSTRY:

> It may well be of some benefit to draw to the attention of this Commission that there are almost as many manufacturers in the electrical appliance business in Canada as there are in the United States of America."

I understand from our own enquiries there are 30 manufacturers in Canada and about 35 in the United States.

> "The capacity of any three of these companies is sufficient to supply the demand for Canada, and at the same time, provide for a modest export abroad."

THE CHAIRMAN: Do you mean any three?

MR. WILSON: Any three of these companies; from production figures and figures we have been able to ascertain, Westinghouse, General Electric and RCA, their production facilities are such that they could not only look after the current demand of Canada but also provide a modest export abroad.

THE CHAIRMAN: I understand when you refer to

those companies because those are three big companies. You do not mean the three smallest ones?

MR. WILSON: We will qualify that.

THE CHAIRMAN: If any three, including the smallest ones, can supply the Canadian market, we are very much over-supplied.

MR. WILSON: The suggestion has been made here today that perhaps the retail outlets are over-crowded. We would like to put it to the Commission that perhaps it goes a long way further than that, the manufacturing industry is over-crowded.

THE CHAIRMAN: What we want to get at is to what extent they are over-crowded.

MR. WILSON: Well, the statistics are not with us. We leave that with you.

THE CHAIRMAN: How far do you want to qualify this statement that any three of these companies can supply the demand?

MR. WILSON: Well, let us put it this way: The current demand of Canada comes nowhere near the manufacturing potentials of the companies already in the business.

THE CHAIRMAN: That is true of some other businesses.

MR. WILSON: Well, of course, we are concerned with this industry.

"Despite this, a very large percentage of the electrical appliances used in Canada is imported from the United States."

I am told about 40 percent is imported from the United States.

"We would also point out that the importation of American appliances does much to improve the quality of Canadian manufactured goods, forcing them to compete with American prices and ingenuity. Again, the public is the beneficiary.

There are many instances in this City where it is most doubtful if the normal overhead is covered by the prices charged."

MR. WHITELEY: Of whom?

MR. WILSON: Of the dealers.

"Despite the confusion which exists as a result of a splurge in 'Loss Leader' selling and the concern to a great majority of dealers, we feel that it is a minor evil of free enterprise and is preferable to Government controls on prices in any way, shape or form. While it is our belief that every effort should be made to preserve the right of a member of the community to carry on his trade or business as he wishes, whether for loss or profit, and in such manner as he thinks most desirable in his own interest, it is our submission that this Commission recommend -

"RECOMMENDATION TO ELIMINATE FRAUDULENT ADVERTISING & UNETHICAL PRACTICES:"

New amendments to the Combines Act or amending the existing section, 406, of the Criminal Code. It is our opinion that if Section 406 was used today we might not be sitting here looking into the instances which will show in a few minutes, fraud and misrepresentation through advertising.

THE CHAIRMAN: Do you mean that it is the fraudulent, misleading advertising which is the main cause of the trouble in the industry?

MR. WILSON: Yes. We want to see the abuses taken out of some of the practices of retail appliance dealers. We feel provision already exists in the law, if it were used. It may be necessary to amend it. Perhaps then, a lot of these abuses would disappear.

There are four main classes of abuses, with which we will deal in a few moments. The Nailed Down product -- which that advertised (indicating) was never intended to be sold. There is another practice which we feel is equally unscrupulous and despicable, that of a dealer working one brand name against another in a manner we will refer to in a moment. Thirdly, the habit of advertising to the public fictitious prices. Say $500, now $299, without telling the public the model was two years old and may have had a pre-budget sales tax included in the price which is referred to. Then, there is the practice of fraudulently advertising obsolete models as current models. Then, another one is "No

Cash Down". The customer goes into the store and on his way in the door, there is a private finance company waiting to bleed him to death in order to provide that money to buy the appliance.

THE CHAIRMAN: Are you referring to an ad recently?

MR. WILSON: Well, that is the type of thing, (indicating).

I have already referred to Section 406. There is a provision in Section 406 which says, in effect, that if a man publishes or displays fraudulently it is a crime and there is a penalty. However, that provision is rarely used because there is a proviso, a loophole, to the effect that if the advertising is in the ordinary course of business that is different. You only need to pick up any newspaper today and there is no doubt that that it is becoming the practice to advertise fraudulently, certainly in the electrical appliance business.

> " It may well be of some value to also point out to this Committee, the exhorbitant use of advertising, the medium of which results in no profit, but is money thrown away and charged as a business expense to reduce very substantially, the payment of income tax on profits made elsewhere."

If I may, I would like to file with the Commission some of the papers we want to produce here. This, (indicating) is an advertisement appearing in the Toronto

Telegram of May 17th inserted by one dealer "Selling nothing". At the most it is an attempt to convey a picture of a dealer who will do anything to contribute to selling costs. It costs $1,100 for a full page ad in a newspaper of this size and the possibility of this ad doing anything to promote sales in our mind, is very doubtful.

THE CHAIRMAN: You mean possibility of that advertisement?

MR. WILSON: Yes, of this particular one.

In addition, it is also probably misleading. This $4\frac{1}{2}$ million dollars worth of goods sold does not indicate that probably a substantial proportion are not goods sold at retail, but goods jobbed out from one dealer to another. A dealer buying in bulk can sell to another dealer at a lower price than that same dealer can buy from the manufacturer. Advertising of such a sort serves no useful purpose. Perhaps it is misleading because the goods sold are jobbed out among -- or, a great proportion of them -- other dealers.

THE CHAIRMAN: Do you wish to file that?

MR. WILSON: I think so.

THE CHAIRMAN: I think since it has been referred to, it should be marked as an exhibit.

That will be Exhibit T-9.

--- EXHIBIT NO. T-9: Advertisement from the Toronto Telegram of May 17th, 1954.

MR. WILSON: "MANUFACTURERS ATTITUDE:

" In normal circumstances, it would be

"assumed that the dealer's 'house' could be cleaned at the level of the manufacturer and the dealer who deceives the public by way of misrepresentation through advertising and by his own unethical practices, have his franchise taken away. This is not the case, due to the almost legalized form of blackmail that a dealer now has over the manufacturer by reason of existing price maintenance legislation.

LEGALIZED BLACKMAIL:

Of late, instances have been brought to mind where a manufacturer legitimately attempting to crack down on one of its unethical dealers, has been forced into a sorry spectacle as a result of the dealer complaining to the Department of Justice that his manufacturer had taken away his franchise, because he dared to sell products below their suggested prices, (violation of price maintenance legislation). The gestapo-like practices which have been brought to our attention in one particular instance, has done much to encourage the manufacturer to sit back and take no action at all.

THE DEALER'S FRANCHISE:

A dealer's franchise should have some value and it is submitted that the public would benefit if, without the necessity

"of amending any price maintenance Law, the manufacturer could feel free to insist on greater requirements from the dealer with respect to service, merchandising and perhaps even, bonding.

MANUFACTURERS NOT ENTIRELY ABOVE REPROOF:

Some manufacturers themselves are not above reproof in the methods they use to promote sales of their own product. Many instances occur where impetus at the manufacturing level is given to cut-throat business practices by the manufacturer agreeing not only to bear the cost of advertising its own product, but also to work his product against anothers; and in other instances, of actually providing salesmen at no cost to a dealer, on the understanding that such salesmen 'push' their own products as against other name-brands on the dealer's premises."

We will come to that example in a moment. We have in mind one instance where a manufacturer will go to a dealer and say, "You have a limited number of", let us say, "General Electric products. We will pay you the cost of advertising in the newspaper the sale of these genuine brand-name G.E. products at a ridiculously low price, on the understanding that when the public comes to buy them they are nailed to the floor and you, in turn, are to push our product".

" Some relief from the existing confusion might result if manufacturers either abolish their 'suggested price list', or eliminate their proposed margin of profit on 'list prices',..."

It may well be, as indicated by the questions of Commission counsel, that the manufacturers' prices are not realistic -- that is the margin they propose. The public is the buyer and everyone likes a bargain.

" Some relief from the existing confusion might result if manufacturers either abolish their 'suggested price list', or eliminate their proposed margin of profit on 'list prices', the effect we believe, in other cases would be to reduce their margin for fly-by-night dealers to operate on, but under existing legislation, it appears that manufacturers are afraid to take this step for fear of Government prosecution for violation of price control legislation over which they have no control."

In commenting I would like to deal particularly with the introduction of the new type of dealer, the cut-rate house. We are a cut-rate house, but we are not there by choice. This company, as I have pointed out, for a period of twenty-four or five years has built up an honourable and enviable record based on

service; and , yet, we have had to meet the situation, this new trend in retail merchandising.

> " Many of the smaller retailers in large metropolitan areas such as Toronto, are concerned over the business carried on by cut-rate Houses. Their fears are that Cut-Rate Houses will do to them what the Supermarkets have done to the small grocer. The Cut-Rate House is not a new idea -- cut-rate of one kind or another has existed for many years. Cut-rate Houses have the advantage of restricting their overhead to eliminate the amount spent on display, deal only on a cash-and-carry basis and the resultant saving is passed on to the consumer. In addition, by being able to purchase on a carload basis from the manufacturer, they are usually able to obtain a further discount. Figures indicate that this additional discount is sometimes equal to, or in excess of the normal margin of profit of the normal retailer outlet.
>
> Cut-Rate Houses are in the fortunate position of being able to turn company profits into dollars by reason of their large volume of business and the fact that they can cash in on brand names and in addition, the manufacturer often

" bears the cost of advertising and promotion.

We believe Cut-Rate Houses are a benefit to the public, by reason of the low prices which result on brand-names, and render a service to the manufacturer because usually they are an outlet to move large quantities of inventory or declining models. In any event, the manufacturer still gets his full market price. Another reason for the growth of the 'Cut-Rate' House is the attitude, we believe, of the retailers themselves. Very few business men in the electrical appliance business have made the adjustment from 'wartime sellers market' with its shortages and high prices, to the existing 'buyers market'. Instead of shaving profits to give consumers the benefit of the enormous post-war manufacturing and volume of sales, many dealers are concerned today, over the loss of sales, and this loss is a result of their own insistence on keeping retail prices high. Retailers we believe must accept the fact that, whether good or bad, 'Cut-Rate House' is here to stay. They have touched off a change in retailing that cannot help but lower the prices to Canadian consumers and to compete with them the department stores and other dealers have the onus of cutting down the heavy distribution costs, and of getting the

"manufacturers' products from the manufacturer to the consumer at a lower price.

In conclusion, it is respectfully submitted to this Commission, that the fraudulent practices, calculated to deceive the public, carried on by a few nefarious fly-by-night dealers,should not be construed as an indication that the retail electrical appliance system of Canada, is of a bad nature. Without the necessity of amending price control legislation, which serves a very useful purpose and eliminates monopoly and rising prices, we believe effective methods can readily be t aken to eliminate the above deceptions, and other fraudulently practices on the public if this Commission would recommend the appropriate amendment to the provisions of Section 406 of the Canadian Criminal Code.

It is further submitted that this Commission seriously weigh the advisability of recommending legislation which will have the effect of eliminating existing fraudulent abuses within the retail Electrical Appliance business, rather than recommend any form of legislation which will eliminate competition within the legitimate trade."

All of which is respectfully submitted by the Eddie Black

Company.

Now, Mr. Chairman, I would like to mention these two or three examples.

THE CHAIRMAN: Bring that first advertisement up and it will be marked Exhibit T-9. This is an advertisement in the Telegram, Monday, May 17th, page 12, and is filed and marked as Exhibit T-9.

--- See Page 772.

MR. WILSON: This is a duplicate.

MR. BLACK: That is the next night.

MR. WILSON: This is the next night. There is another $1,100 that next night telling the public the same thing, without any effort to promote sales.

THE CHAIRMAN: This is a two page ad but you only wish to refer to the one page?

MR. WILSON: Yes, we are only concerned with the 4¼ millions proposition.

THE CHAIRMAN: The next one, is an advertisement from the Toronto Daily Star of Tuesday, May 18th, 1954, which will be marked as Exhibit T-10.

---<u>EXHIBIT NO. T-10</u>: Advertisement from the Toronto Daily Star dated Tuesday, May 18th, 1954.

MR. WILSON: Now, we have mentioned the problem of goods nailed to the floor and I imagine the Commission has heard of it before. We wish to bring to the attention of the Commission one instance of that type of selling. I might say this is a personal experience of my own. I did this so we might have the evidence at the right time and place. On Thursday, April 8th, this advertisement

(indicating) appeared in one of the Toronto papers. It purports to advertise two General Electric models, one at $349.00 and the other at $319.00. The point we wish to make is this: How it affects the other dealers. The price of this model is some $40 lower than any other dealer in Toronto could buy.

MR. FAVREAU: In both cases?

MR. WILSON: In both cases.

MR. BLACK: No, not quite. Actual cost of that, in large buying, was $333.00. It was advertised for $319.00.

MR. WILSON: There is a difference. The seller is going to lose the difference between $333.00 and $319.00. That is, if he sold these sets.

THE CHAIRMAN: Unless he got a special price.

MR. WILSON: No, that includes the maximum special price. It would be a type of deal which has not existed. We will file the invoices.

I went to this store --

MR. FAVREAU: Excuse me. That is one. The other one, $349.00, what is that?

MR. BLACK: That was a matter of $20 more.

MR. WILSON: $319 was $334.00.

THE CHAIRMAN: In that instance the advertiser proposed to sell the article for $15 less than the lowest price that could be obtained by a dealer who bought in large volume?

MR. WILSON: That is right, sir.

Now, then, I went up with the cash and I tried within a few hours, two or three hours, of this

newspaper hitting the street, I went up to try and buy one and I was shown two models of each and both of them had 'sold' tags on them. I had the addresses and we were quite satisfied the tags on those units contained names and addresses of buyers who were non-existent.

MR. FAVREAU: The addresses were non-existent?

MR. WILSON: The addresses were there but there were no such people living there.

THE CHAIRMAN: You checked the names of the people?

MR. WILSON: No one there by that name. These models were on the floor with the same names on them --

THE CHAIRMAN: Waiting for them to show up, probably.

MR. WILSON: I was very anxious to relieve them of either one of the sets, with a truck around the corner to save them any delivery charges.

The point we wish to make is, first of all, if they were sold to the public they would be sold by that particular dealer at a loss; secondly, it was never intended that they should be sold.

MR. FAVREAU: To complete your statement, you say one of these was on the floor with the notation 'sold'?

MR. WILSON: No, sir, there were two of each model. That would be four sets. Each one had a sold tag on it.

Now then, I have pointed out there would be a loss to begin with; second, they were never intended to be sold.

THE CHAIRMAN: Thirdly, they were not sold?

MR. WILSON: The chances are they were not sold.

I told the salesman I wanted one of these sets, a friend of mine had one and we were very much impressed. He said: "Look, we have another model over here. It is a G.E. also, a little more expensive." As it turned out, Northern Electric was stamped on the face of it. I said, "This is a Northern Electric". He said, "That does not mean a thing, the chassis is made by G.E.", and sure enough there was a tag on the back showing it was G.E. I said I was still interested in the G.E. model. He said, "I will let you see the Northern Electric model and the G.E. working together so you can compare them." Having said that, the salesman went down into the basement, he said, "I have to plug them in down there, you just wait". The performance of the G.E. model was such that no person in his right mind would ever buy it. That is the extent to which this thing has gone. The impression I had was that the plug was just barely making contact with the electrical outlet on the G.E.model. The Northern Electric model, everything seemed to be fine, a beautiful picture. If you were going to judge the two sets on merit you would pick the Northern Electric set. It is all part of a pre-conceived effort, not only to carry through this fraudulent advertising but also to switch a buyer from one model to another, usually a more expensive model.

THE CHAIRMAN: When you referred to the Northern Electric model, the man in the store said it was made by Northern Electric?

MR. WILSON: He said the same thing. He said,

"I can show you there is a G.E.chassis", and sure enough, there was some reference to G.E. I am told some manufacturers do make a chassis for other manufacturers who put them in their own frames. Mr. Black will cover that later on.

THE CHAIRMAN: He was trying to give you the impression it was the case that was different?

MR. WILSON: Not in so many words. It was obvious from looking at the two cabinets, one had G. E. and the other had Northern Electric. But when you got around to the back and saw G.E. stamped on both chassis, you might assume there was no substantial difference.

THE CHAIRMAN: I suppose if they were made by G.E. there would be no substantial difference.

MR. WILSON: I might point out this: In the G.E. model I am told there is a technical improvement. These two models were very desirable by reason of the fact they had the aluminized type of tube, which gives the picture a greater clarity. That, of course, would make the one set desirable as against, say, the Northern Electric.

MR. FAVREAU: Were they the same price?

MR. WILSON: I cannot honestly say that. Whatever the difference was, it was not substantial. If it was more it was not substantially so. I may have a record of what they were somewhere.

The point I wished to make was that you could not buy that set if you wanted to. I went back two weeks later and they were still there.

The other instance we would like to relate to the Commission is this: Some months ago we were approached by one of the manufacturers. In any event, we made a deal to take up a relatively small quantity of a line still on their hands. Let us say about 200 sets. There were no more out anywhere else. We bought them up. So, we advertised them at the price we were going to put them on the market for. That was followed the next day by a competitor who could not possibly have had any of these sets, advertising the same set at $100 less than our price. Now, one can only infer the motive. It was obviously done to give our customers a sense of dissatisfaction. The public would not know this second dealer did not even have the sets, the whole idea being to get them in, sell them something else, and at the same time create dissatisfaction amongst our own customers.

THE CHAIRMAN: Did you take any actual steps in that case to verify that there were no sets in this other advertiser's store?

MR. BLACK: We tried the same procedure, we sent a shopper to try and buy one. It was impossible to buy, there were none there to be had. We found one in one of their stores -- it was a chain with three locations -- we found one so badly battered up it could not be sold, and they sent it from one store to another.

MR. WILSON: We sent our chief accountant down. We sent a man down whose job was to buy that model at any price.

MR. WICKWIRE: Not having any, did they attempt

to sell others?

MR. BLACK: Toronto Radio bought the surplus of Victor stock, and after advertising it consistently for a couple of weeks, this dealer came along with a big ad $40 below our cost, and $100 below our price. The set was not available. We sold these people on a credit basis and they wanted to return the sets for credit. They would not believe that this dealer did not have the sets available. That thing is consistently done, a vicious type of advertising.

THE CHAIRMAN: I think that advertisement ought to be filed as well.

MR. WILSON: I would like to tear the top off. I have one of the addresses.

THE CHAIRMAN: I am going to use it again.

This is an advertisement from the Toronto Daily Star of Thursday, April 8th, 1954, which will be marked as Exhibit T-11.

--- <u>EXHIBIT NO. T-11:</u> Advertisement from the Toronto Daily Star dated Thursday, 8th April, 1954.

MR. WILSON: That completes what I had to say, Mr. Chairman and counsel. I think Mr. Black has saved his voice for a few further examples.

Thank you, very much.

MR. BLACK: I would just like to present this other form of advertising. Here are two pages (indicating). These ads appeared a couple of weeks apart. In this particular case the dealer was offered a quantity of sets.

We know the price because they were offered to us, and we refused them. He paid $225 for 150 some odd sets. A couple of days later he advertised them first, at $238. That was dated May 2nd. Well, I do not know whether they moved very fast or not. The manufacturer was approached to take this merchandise back, under threat. These were console models. The manufacturer had table models, and he would not take them back. Along comes an ad dated May 21, the same set, $199, a loss of $26 per set. This is spiteful advertising, there is no merit to it. I feel the consumer has lost all faith in this manufacturer and he has been put in the category of a wrong doer. The customer buys a set at $238 and then the next day it is down to $199. The dealer in question is ridiculous enough to take a $26 loss on each set. He is not financially embarrassed so that he has to do that. He has deteriorated the whole market so that there is no customer confidence at any price.

THE CHAIRMAN: Mr. Black, would you identify this advertisement you have been referring to, just state what they are.

Well, I can do that. The advertisements just referred to are found, first, in the Toronto Daily Star, Monday, May 3rd, 1954. The second is from the Toronto Daily Star of Friday, May 21st, 1954. These are the two advertisements to which Mr. Black has just referred. I will mark them as exhibits T-12 and T-13.

--- EXHIBIT NO. T-12: Advertisement from the Toronto Daily Star dated 3rd May, 1954.

---<u>EXHIBIT NO. T-13</u>: Advertisement from the Toronto Daily Star dated Friday, 21st May, 1954.

THE CHAIRMAN: Yes, Mr. Black? Does that complete what you want to say?

MR. BLACK: That is all.

THE CHAIRMAN: Were those invoices to be filed?

MR. BLACK: Pardon me. This is a current invoice on that same set. It is dated May 27. This is referring back to this previous one.

THE CHAIRMAN: Mr. Wickwire, do you wish to ask a few questions?

MR. WICKWIRE: Just a few questions.

I was going to ask, Mr. Black, if you would be good enough to explain to the Commission if there has been any change in your merchandising policy?

MR. BLACK: Definitely.

MR. WICKWIRE: Perhaps the answer would be obvious but would you explain im a few words when the change took place and why it took place and what the change was?

MR. BLACK: It was a necessity with me. We had a location on Yonge Street in which we were a little confined for room. We never had the proper space to expand until February. With the trend of this merchandising today we had to open up and simply come out in the open and say, "We are a cut-rate house". We made it more definite, perhaps, than some other people. We adopted the policy that there was no such thing as a list price and we now operate on the same basis as

Eaton's: It's our price, and that is it. Every article is marked below list price and no list price is shown. That is the price and that is the price we get for it. We have not two prices, just one.

MR. WICKWIRE: As a result of that change in policy you have been doing and are doing, a much larger volume than you formerly did?

MR. BLACK: That is right.

MR. WICKWIRE: And the customer is buying these appliances at a lower price than he formerly bought?

MR. BLACK: I would say yes, to that.

MR. WICKWIRE: Now, in your experience, Mr.Black, do you find any -- You have previously explained there is no customer confidence in the dealer because of what is going on?

MR. BLACK: That is right.

MR. WICKWIRE: Can you tell me this: In your experience do you find there is any customer confidence in the appliance which he buys because it is sold at less than the suggested price?

MR. BLACK: No, I think it is the fluctuation in price and misleading advertising which has caused that. There cannot be too big a differential between one dealer and another, he has his operating overhead. It is misleading advertising. I do not think I can sell any lower than the other fellow.

MR. WICKWIRE: Someone has suggested perhaps it would help to alleviate this present situation if there was not such a margin between the price to the dealer and the suggested list price?

MR. BLACK: I was actually responsible for holding that meeting where that resolution was passed. I believe where the discounts are too high, the manufacturer could bring his suggested list down. There will always be cut-rate houses but there will not be the big spread that there is now.

MR. WICKWIRE: The fact there is a big spread opens the door to the price cutting?

MR. BLACK: As Mr. Waddell said -- unfortunately we are in Toronto -- in Windsor he operates on a different principle, on a trade-in principle. In Toronto the trade-in is simply gone, there is no such thing. The customer can buy just as cheap with or without a trade-in.

MR. WICKWIRE: Do you know if there are any service companies actually operating in Toronto who do not sell appliances?

MR. BLACK: That is right.

MR. WICKWIRE: Are they pretty busy?

MR. BLACK: There are companies operating as far as the white goods are concerned. On nationally advertised lines they are usually sold to the public with a service warranty provided by the manufacturer or a service company which has taken that warranty. That is in the Metropolitan area. I do not know about the out of town dealers. He has to service them himself.

MR. WICKWIRE: One of these exhibits your counsel has placed before the Commission -- it is the one marked Exhibit T-9, the New Era advertisement, "Our Auditors

Verify New Era Have Sold Over $4\frac{1}{4}$ Million Dollars Worth of Equipment" -- what is the difference between that and the T. Eaton Company saying "Merry Christmas To All Our Customers"? I cannot see that that in itself, is fraudulent. With some of the other examples given, I perhaps agree, but I do not understand why that is, in itself, fraudulent. He says his auditors have certified that they have sold over $4\frac{1}{4}$ million dollars worth of appliances.

MR. BLACK: I am a little hard of hearing, I do not catch every phrase.

MR. WICKWIRE: I am sorry. I can follow the complaint about the Nailed Down articles, I can follow the illustrations your counsel gave about the difference between the G.E. machine and the Northern Electric machine. That is being alleged as being fraudulent practices?

MR. BLACK: I do not class that as fraudulent advertising. We call it wasteful advertising. It is probably true.

MR. WICKWIRE: Anybody who is foolish enough to give $1,100 to a newspaper can do it.

MR. WILSON : And it was not Christmas either.

MR. WICKWIRE: Oh, no.

I cannot see that it is fraudulent. You have suggested legislation or amending legislation, and I cannot see how you can get away from that sort of thing.

MR. WILSON: No, we do not say that you should take that too seriously. We are trying to show money is being thrown away on stuff like that which has no

value as far as we are concerned, in the business. It is trying to sell personality. The picture in every home of a particular dealer.

MR. WICKWIRE: Thank you.

THE CHAIRMAN: Mr. Black, I was a little puzzled by one or two things you said and I am not quite certain that I understood the full meaning of one or two of your answers. In reply to one question of Mr. Wickwire, part of your answer was that you did not think you could sell at a lower price than the other fellow.

MR. BLACK: I do not think so. This is an experiment with me and I cannot give you any figures yet as to how profitable it is.

THE CHAIRMAN: Are you selling at a lower price than most of the other dealers?

MR. BLACK: I do not think so.

THE CHAIRMAN: As a result of your selling policy, which has been to sell at the lowest price, I thought you said to Mr. Wickwire that your sales had gone up substantially?

MR. BLACK: Oh, substantially, due to larger premises and more advertising, and coming out with the fact that it is cut-rate.

THE CHAIRMAN: If you are not selling at a lower price than most of the other dealers, would you say that the likelihood is that their sales have gone up too?

MR. BLACK: I would not have any idea.

THE CHAIRMAN: Some of them suggested they have not gone up.

MR. BLACK: We have taken a lot smaller mark-up,

and naturally, we are banking on volume taking care of our overhead. I could not tell you what will happen.

THE CHAIRMAN: Do you think the cutting of prices has widened the market so that many more people come in and buy than otherwise would have done?

MR. BLACK: As I say, it was a case of being forced into it or out of business. I had to take the same attitude as five or six other large cut-rate houses. There is no halfway measure, there is no such thing as halfway; you are in the cut-rate business or you are going to barely exist as a full price house.

THE CHAIRMAN: I do not think you have the point of the question. What I was wanting to get at is whether you can give me an answer from your experience as to whether the result of cutting your prices has been that a good many people who would not have bought appliances did buy appliances because they could get them at a lower price and therefore, were willing to buy?

MR. BLACK: I believe that.

THE CHAIRMAN: You think that is true.

Do either of you wish to add anything further, because I think we have completed all the questions we wish to ask.

MR. WILSON: Just in answer to your question, we have found just as Mr. Jardine did, as Mr. Black has said, that this is something we have been forced into comparatively recently. We have found, as a result of a drastic drop in prices, that people, instead of buying a refrigerator or a stove, one item a year, they

will come in and walk out with two or three big items. It is nothing to have a customer come in and walk out with an order for a 'frig, washer or dryer or deep freeze.

MR. WHITELEY: You are getting more multiple sales, in other words?

MR. BLACK: The only reason we brought up those instances, we are still a showroom for a lot of other dealers -- we are not the lowest in price.

THE CHAIRMAN: No.

If there are no other questions that will complete the presentation on behalf of Eddie Black Limited.

MR. WILSON: Yes.

THE CHAIRMAN: The hearing will adjourn for this afternoon and we will resume the sittings to-morrow morning at ten o'clock.

--- Whereupon the hearing adjourned at 4.59 o'clock P.M. on Wednesday, 2nd June, 1954.

(Page 800 follows)

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RESTRICTIVE TRADE PRACTICES COMMISSION

LOSS-LEADER SELLING

TRANSCRIPT OF EVIDENCE

Vol. 6

TORONTO

JUN 3 1954

RESTRICTIVE TRADE PRACTICES COMMISSION

IN THE MATTER OF

an inquiry

Regarding Loss-Leader Selling

Hearing held (in public) in the Senate Chamber, University of Toronto, Thursday, June 3rd, 1954.

PRESENT

C. Rhodes Smith, Q.C., M.A., LL.B., B.C.L.
Chairman

Guy Favreau, Q.C., B.A., LL.B.,
Member

A. S. Whiteley, B.A., M.A.,
Member

APPEARANCES:

Mr. N. W. Wickwire, Q.C.,	)	
and	)	Counsel for the Commission
Mr. Paul Gerin-Lajoie	)	

REPRESENTATIONS:

TORONTO, THURSDAY, JUNE 3rd, 1954

Delegation from: CANADIAN GENERAL ELECTRIC COMPANY (SMALL APPLIANCE DEPARTMENT)

Represented by: Mr. R. M. Jennings, Manager, Small Appliance Department.
Mr. R. C. Wilde, Manager, Advertising and Sales Promotion, Small Appliance Department.

---The hearing commenced at 10.00 a.m.

THE CHAIRMAN: Gentlemen, the hearing will come to order, and this morning the first presentation is to be made on behalf of the Canadian General Electric Company.

I would suggest that those who are taking part in the presentation might be grouped at this table to the right and we might follow the procedure which has been previously observed, though this brief is somewhat longer and might take a little longer to go through than others. I would suggest that the brief be read, and any comments which the gentleman reading it desires to make may be made during the course of reading it or at the end as he sees fit. Then he may make any comments or additional observations that he desires to make and any other member of the delegation who desires to comment on the general picture may also do the same, following which we will have questions and discussion of the whole

situation and the matters contained in the brief.

To begin with, we would like to have the names of the actual delegation and their positions with relation to the company.

MR. JENNINGS: Mr. Chairman, I am R. M. Jennings, Manager of the Small Appliance Department of Canadian General Electric. As the chief executive of the Small Appliance Department I have responsibility for engineering, manufacturing and marketing G.E. small appliances in Canada. Except for the period in World War II, I have been associated with the small appliance business for Canadian General Electric since 1931.

I have here with me in case my voice should not hold out in reading this long brief, Mr. R. C. Wilde, who is Manager of Advertising and Sales Promotion for the Small Appliance Department.

Just before I begin, sir, may I make just a comment to the Press about the brief. I have some copies here if they would like them.

Mr. Chairman, members of the Commission, Mr. Wickwire, and members of the Press. The Small Appliance Department of Canadian General Electric Company is proud of the good value its small appliances offer and their suggested retail prices. We take pride in the job we have done in pioneering new products and in making available to the Canadian public quality small appliances with fine appearance and outstanding

performance at suggested retail prices which are low in relation to the prices charged for most other goods and services. We manufacturers are castigated frequently about Canadian prices being much higher than they are south of the border. This is not true of our small appliances. For instance, our Featherweight iron which has been subject to heavy loss-leader attacks has a Canadian suggested retail price of $12.95 including 10% excise tax. In the United States the retail price of its counterpart made by our American company with only 5% tax is $12.45. Our Swivel-top vacuum cleaner which has a suggested retail price in Canada of $99.95 including 10% sales tax, lists in the U.S.A. at $89.95 with no tax. Our parent company in the United States does not sell a kettle or floor polisher. However, a manufacturer of domestic floor polishers in the U.S.A. makes a machine of the same type as ours. He makes more machines than the whole industry manufacturers in Canada. And yet his suggested retail price in the U.S.A. is $10.00 higher than our suggested price in Canada.

We take a very serious view of the loss-leadering and other excessive price-cutting that has taken place on our products as a result of the enactment of Section 34 of The Combines Investigation Act. If, in the presentation of this brief, we fail to present our case clearly and fully, it certainly will not be

from lack of time and effort.

"During the past 23 months our Featherweight iron, electric kettle, and floor polisher have been widely advertised by retailers as 'loss leaders'. Because of the extensive use of our products for this purpose, we are submitting this brief to supplement the more general presentation being made on behalf of the Appliance Industry by the Canadian Electrical Manufacturers Association.

"In the preparation of this material we have taken note of the Commission Chairman's request, contained in his letter inviting representations, for specific information, and have included details of several representative examples of loss leadering on our small appliances and other factual data to show the extent of this practice and its effects.

"In expressing the hope that this material will be of assistance to the Government in developing a solution to this problem, we would respectfully ask the Commission to remember that retailers are under no obligation to supply us with factual information, and in many cases have been reluctant or unwilling to do so.

And this is a foreward to also explain the brief.

"An explanation of the organization structure of the Canadian General Electric Company (hereinafter referred to as CGE) and its method of doing business on small appliances will assist in understanding the comments in this brief

"The Small Appliance Department is a semi-autonomous, decentralized business within the overall framework of CGE. It has responsibility for manufacturing and marketing GE small appliances (irons, toasters, kettles, floor polishers, vacuum cleaners, etc.) in Canada and has its own balance sheet. It sells small appliances to about 90 independent distributors plus the 25 warehouses operated by the Wholesale Division of CGE. Shipments of small appliances are made direct to distributors from factories at Barrie, Ontario, and Quebec City. No stock is carried elsewhere by the Small Appliance Department. The Wholesale Division of CGE also has its own profit and loss statement and purchases small appliances as a distributor from the Small Appliance Department.

"Our distributors (sometimes known as jobbers or wholesalers) perform the function of stocking GE small appliances

at convenient points across the country. They promote the sale of these appliances with and through dealers (retailers) and fill dealers' orders from their stock. The Small Appliance Department does not sell to retailers. All of the firms mentioned in this brief to illustrate the extensive use of our products as loss leaders are retailers and purchase GE small appliances from one or more of our distributors.

To get mass exposure of our products in dealers' stores so as to attain the production volume necessary to achieve low manufacturing costs and to cover adequately the electrical, hardware and jewellery trades, we use a system of multiple distribution, i.e., we have a number of distributors in each geographical area, none of whom has exclusive territorial rights. For this reason it is difficult or impossible for us to obtain accurate figures of retailers' sales or our total sales by areas smaller than provinces.

"On Tuesday, April 6, 1954, the 15% excise tax on small electrical appliances was removed. On Wednesday, April 7th, the Small Appliance Department of CGE reduced its price on the GE floor polisher by the full amount of the tax as detailed below:

	Suggested Retail Price	Lowest Suggested Price to Dealers (lots of 3 or more)	Our Price to Distributors
with 15% excise tax	$64.50	$41.93	$35.80
After excise tax removed	54.50	35.43	30.25

"On Thursday, April 8, the Danforth Radio Company Limited, who operate five retail stores in Toronto selling electrical appliances and TV, featured our floor polisher in an ad in the Toronto Telegram ..."

And I would ask you if you would mind referring to Exhibit A just for a moment. In this ad the Danforth Radio Company took a band across the paper using three cuts of the floor polisher about five inches deep, I would say, offering the polisher at $33.85.

"This ad which was in the Toronto Telegram on Thursday, April 8, was repeated on Friday, April 9 in the Toronto Star. Danforth Radio continued to sell polishers at $33.85 until Monday, April 12, when they increased the price to #38.95.

"Between April 8 and April 12 inclusive Danforth Radio bought 833 polishers from Ellis & Howard Limited, Toronto, Electro Sonic Supply Co. Ltd., Toronto, and the Wholesale Division of CGE. They may have purchased from other

distributors as well. In chronological order, their purchases from these three distributors were as follows:

Date	Quantity	Purchased from
Thursday, April 8	30	CGE Wholesale Division
" "	24	Ellis and Howard
Friday, April 9	175	CGE Wholesale Division
" "	120	Electro Sonic Supply
" "	175	CGE Wholesale Division
" "	60	Ellis & Howard
Saturday, April 10	144	CGE Wholesale Division
Monday, April 12	105	CGE Wholesale Division
Total in 4 days	833	

"From the manner in which the polishers were bought and from shopping the Danforth Radio stores several times during the sale and finding them out of stock, it appears reasonable to conclude that all or almost all of the 833 polishers purchased by Danforth Radio during this period were sold by them during the three-day sale. This is more GE polishers than all the retailers in the metropolitan area of

Toronto would normally sell in a month. It is almost as many polishers as the largest retailer in Toronto sold during a full year prior to the enactment of Section 34 of the Combines Investigation Act.

"Tom Gibson, sales manager of the Danforth Radio Company, stated to us on April 13th that while he did not know exactly how many GE polishers they had been selling before the sale, he estimated that they had been averaging about one per day.

"629 of the 833 polishers bought during the 4-day period and advertised at $33.85 were purchased from the Wholesale Division of CGE at $35.43 each. In view of the large quantity purchased from CGE at this price, it would appear reasonable to conclude that the polishers purchased from the two other distributors were bought at the same price.

"We believe everyone will agree that this is a clear-cut case of using a well-known product as a loss leader.

"It is but one of many instances of loss leadering and other excessive and unhealthy price-cutting practices that have taken place on our small appliances since resale price maintenance was made illegal on January 1, 1952, through the passing of Section 34 of the Combines Investigation

Act (hereinafter referred to as Section 34.) A number of other specific examples of loss leadering and other unhealthy price-cutting practices will be found on pages 4, 5, 6, 8 and 9.

"In fairness, it should be emphasized here that the Danforth Radio Company was not among the pioneers in using the GE polisher as a 'loss leader' in the Toronto area.

"We, in the Small Appliance Department of CGE, believe firmly in the principle of resale price maintenance; that is, in the right of a manufacturer to exercise some measure of control over the prices of his own trade-marked products if he wishes to do so. We feel that this privilege which is now denied to us by Section 34 is, from a long-term standpoint, in the best interests of our department, of our distributors, and of all but a few of the dealers handling our products. While it cannot be denied that under the present legislation the public has obtained some outstanding bargains at the expense of thousands of retailers across the country, we remain unconvinced that Section 34 is in the best interests of the consumer over an extended period. The serious effects on all concerned of the loss leading and other unhealthy price cutting which has

resulted from Section 34 are outlined in detail later in this brief.

"The GE floor polisher has probably been used as much or more than any other item as a loss leader. We would like to trace briefly the history of the development of this product in the hope that it may make a contribution to a better understanding of how new products gain public acceptance and explain our opposition to Section 34.

"When World War II was drawing to a close, we turned some of our attention to postwar planning -- to the possibility of developing new products which at that time were not in common use.

"The floor polisher was one of these.

"We found that back in the 1920's someone had come up with the idea of building a domestic floor polisher with two counter-rotating brushes which had the full weight of the polisher on the brushes while the machine was in use. Several small manufacturers in the United States had put such a machine on the market in the 1930's and had each sold a few. These machines had not appeared on the market in Canada pre-war. There were no basic patents on the two-brush idea.

"We secured one machine of this type and our preliminary tests indicated that it did do a good job of polishing floors. We decided to undertake a full-scale market research program to determine whether or not this product did a good enough job in relation to the price we would have to charge for it to find favour with the public and allow us to develop volume sales.

"We purchased 19 polishers of three different makes, and over a period of two years we loaned these polishers to over 200 people to use in their own homes. Each person after trying out the polisher was asked to complete a questionnaire . . "

which is in the brief as Exhibit B and which I don't think we need to refer to.

"The two key questions on this questionnaire were -

(1) What is your opinion of the performance of this floor polisher? Were you satisfied with the results obtained?

(2) Would you like to own one of these polishers? If 'yes', what would you consider a fair price?

"Many shortcomings of the machines tested were mentioned by users, but over 90% of the people who used a polisher

indicated they liked the idea and would like to own one. Approximately 10% stated that they would pay a price as high as $89.50, while almost 50% indicated that if a machine of this type could be manufactured to sell as low as $59.50, they would buy.

"At this stage preliminary cost estimates were prepared which indicated that if we could achieve high volume production, we could establish a retail price of $59.50 and provide margins for distributors and dealers which would make it interesting and worthwhile for them to do their part of the creative selling job necessary in bringing to the attention of the public the merits of this new product. Our work up to this point had cost us several thousand dollars.

"A decision was reached to go ahead and a sales objective established equal to several times the maximum rate at which floor polishers had ever been sold previously."

And that is, sold by all manufacturers.

MR. WHITELEY: In Canada?

MR. JENNINGS: In Canada, yes.

MR. WHITELEY: I thought you had said earlier there had been no such machine on the market in Canada?

MR. JENNINGS: There were other types of

machines, other types of domestic floor polishers, but not of this type.

THE CHAIRMAN: You mean, not electrically operated?

MR. JENNINGS: That is right.

THE CHAIRMAN: You are not referring to the hand-push machine?

MR. JENNINGS: No, sir, the type on the market before the war, what we refer to as the lawn-mower type, it had one brush that went around like this, or a single brush which rotated like this on the floor, with most of the weight on the wheel. Neither of those types had found favour with the public because their performance was not good enough.

"Our mechanical engineering specialists and appearance design people worked together to create a design which would overcome the weaknesses of the machines tested, have good appearance, and lend itself to low-cost manufacturing. After extensive model making and testing a design was completed in 1948. Tooling was begun and by the spring of 1949 we were ready to launch this new appliance. It was a product of Canadian origin with no counterpart in any other country."

MR. WHITELEY: What do you mean by that?

MR. JENNINGS: I mean, sir, there was no machine like it in any other country, exactly like it, having the same appearance design, having the same mechanical engineering.

MR. WHITELEY: You are taking quite an extensive territory there.

THE CHAIRMAN: The word "counterpart" might seem to indicate that there was nothing operated on the same kind of principle.

MR. JENNINGS: Perhaps we are stumbling on the word "counterpart", but the word "counterpart" means a machine exactly the same, in appearance.

> "It is a fact well known to marketing men but not generally appreciated by others that people do not beat a path to the door of a manufacturer who builds a new kind of product that no one knows about. Man is a creature of habit and generally resists new ideas and new things which he later comes to value very highly.
>
> "Regardless of the merits of a new kind of appliance, regardless of what it does for the user in relation to the price the buyer is asked to pay, it takes a great deal of creative selling on the part of manufacturers, distributors, and dealers to convince the first 5% to 10% of the people that they should buy the new product and enjoy its advantages.

"We faced this situation in the job of building public acceptance for the floor polisher. Here are some of the things we did during 1949 and 1950.

"We sold between 4,000 and 5,000 floor polishers at a loss to distributor and dealer sales personnel for use in their own homes to acquaint them with what the polisher would do.

"We released several large newspaper and magazine ads across the country designed to do a creative selling job. Exhibit C is a sample".

And I would ask you if you would just refer to Exhibit C for a moment. I would just like to make an extra comment about what we may mean by creative selling job. By creative selling on a new type of product that no one knows about, we mean selling by various media by the retailer, by the manufacturer, which tells the public what the product will do for them, talks about the advantages of the product. That Exhibit C is just one example of newspaper ads that we use.

"Over 600 French and English billboards (those in exhibit D) were posed for one month all across Canada at a cost of about $17,000. Approximately 1200 display and demonstration centres (shown at exhibit E) were bought at a cost of $35.00 each,

approximately two-thirds of which was paid for by the dealer.

"When the polisher was introduced sample polishers were shipped to approximately 1200 retailers all across the country. As production was expanded additional retailers undertook to stock and display the polisher until over 2000 were offering it for sale. These retailers gave thousands of demonstrations to prospects in the homes and in the stores, kept the polisher attractively displayed, made calls on prospects in their homes, loaned floor polishers to prospective purchasers, and in many other ways did their full part in the educational job that is necessary to get a new product moving in volume.

"By 1950 we had achieved our original sales objective and the polisher was being offered across Canada at a uniform retail price of $59.50. At this price, in our opinion, buyers were getting excellent value for their money in relation to the price of other goods and services -- and they indicated that they agreed by their volume purchases. In September 1950 a 15% excise tax was imposed, which made it necessary to increase our price to $64.50. This excise tax was increased to 25% in April 1951, which necessitated

a further increase to $69.50. This heavy tax slowed down our sales to some extent, but we still managed to achieve our volume objective for the year 1951.

"Up to this point we had invested over half a million dollars in market research, engineering, plant and equipment and tooling, and in advertising and sales promotion.

"Let us now trace in chronological order what has happened to our polisher since the passing of Section 34, using Toronto as an example.

"In April 1952 the suggested retail price was reduced from $69.50 to $64.50 when the excise tax was lowered from 25% to 15%. The suggested price to dealers for each polisher in lots of 3 was $41.93; 24 $39.83; and 48 $38.70. In May and June the polisher was heavily advertised in the Toronto Star and Telegram. Among others, Consumers Electric advertised at least four times at $44.95, Midtown Tire twice at $45.70, Caplan Radio Danforth Ltd. once at $41.95, and New Era twice at $42.77 and once at $41.75. All of these prices were above the 48-quantity dealer price of $38.70, but substantially below the markup

required by the average electrical dealer to cover operating costs.

"As 'loss leadering' developed in intensity during 1952 we came under heavy criticism from a large number of the smaller retailers who did not have the space nor the money to buy 24 or 48 polishers at a time in order to get the quantity price. These retailers who normally followed the practice of buying standard package quantities of these frequently, found that they were not in a position to meet the cut prices established by the dealers who were using the polisher as a loss leader. Because of the very important contribution the small retailers all across Canada had made in building up our volume sales, we came to the conclusion that it would be desirable to try to put them in a position to compete, and as defence mechanism we accordingly withdrew the suggested retail quantity prices at the end of 1952."

MR. FAVREAU: From that time did you limit your largest discount to lots of 3?

MR. JENNINGS: That was our largest suggested. As you know, we can only suggest.

"The situation continued much the same during 1953 until the last quarter

when prices broke through the previous low and some polishers were sold by retailers below their net purchase cost.

"The Better Plumbing Company Ltd. of 641 Yonge Street advertised in November at $41.00. George's Appliances Ltd. of 842 College Street purchased 144 polishers from CGE Wholesale Division on December 15th at $41.93 each and advertised them at $41.00. New Era, Caplan's, and others followed suit and on December 17th the Wayne Radio Company broke through the $40 barrier to $39.95.

"This remained as the new low through the first quarter of 1954 until the excise tax came off on April 6th. The Danforth Radio Company was the first to break the price down below $35.00, with the results detailed at the beginning of this brief.

"Here is a partial list of Toronto advertisers since the excise tax was removed:"

And I might say this is from April 7th to May 7th.

"Date	Paper	Price	Dealer
April 7	Toronto Star	$40.00	New Era
8	" "	39.95	Wayne Radio
8	" Telegram	33.85	Danforth Radio
9	" "	33.85	Herb Caplan Radio
9	" Star	33.85	Danforth Radio

April 28	Toronto Star		33.75	Michael's Appliances Ltd.
May 3	"	"	32.95	New Era
5	"	"	33.75	George's
5	"	Telegram	33.95	George's (no money down)
7	"	Star	33.95	George's (no money down)

"It is interesting to note that since the excise tax was removed at least five Toronto retailers have advertised the polisher below our best suggested dealer price, of $35.43.

"Detailed information on one instance is interesting."

And this is particularly interesting in view of the information that was volunteered to you yesterday.

"On May 3rd New Era advertised the polisher in a relatively small ad in the Toronto Star"

You might just refer to Exhibit F if you would. This was part of a two-page ad. The ad on the GE floor polisher is, what, about two inches square, two and a half perhaps, just a little ad which says "100 only, none sold after 7 p.m.

THE CHAIRMAN: As part of a two-page ad it might attract more attention than it would do if it had been by itself.

MR. JENNINGS: Oh, yes sir. I mean, it was

a relatively small part of a large ad. That is my point.

"On May 3rd New Era advertised the polisher in a relatively small ad in the Toronto Star at $32.95, limiting sales to 100 with no sales after 7 p.m. Subsequent to the sale Mr. Lewis, President of New Era, told us that he had let the sale run through until 7.20 p.m., at which time he had sold 108. He then raised his price to $37.75 and between 7.20 p.m. and 9.30 p.m. sold 41 more."

This is the same retailer selling the same merchandise in the same store on the same day at two different prices.

THE CHAIRMAN: And doing quite well at the higher price.

MR. JENNINGS: That is what he said, sir.

"Mr. Lewis stated that at $32.95 he was selling the polisher below his net purchase cost."

And in view of the testimony yesterday, when another gentleman and I were in Mr. Lewis's office he got a 'phone call from another retailer who saw the ad in the paper and who wished to purchase some polishers, and Mr. Lewis said to him: "I will treat you the same as any other customer. You can have one." He made the statement to that

other dealer. The polishers cost him $34.50.

"We gathered from our conversation with him (Mr. Lewis) that one of his main motives in the sale . . ."

and I think he confirmed this yesterday --

". . .was to show Danforth Radio that no one can undersell New Era."

THE CHAIRMAN: He got that, I think, from Gimble's.

MR. JENNINGS: Could have been, yes sir. The only thing about that, sir, it stopped after a few weeks.

"Before considering the effects of this loss leadering on our polisher sales, let us look briefly at what has happened to our Featherweight iron and kettle in Toronto since the excise tax was removed.

"Featherweight Iron and Kettle continue to be targets for heavy 'Loss Leader' attacks.

"Since January 1, 1952, our Featherweight iron and electric kettle have been used widely and repeatedly as 'loss leaders.' Here is a partial listing of the newapaper advertising that has taken place in Toronto from April 7 to May 10, 1954. The advertised prices should be looked at in

conjunction with our current price schedule which is as follows:

	Retail Price	Price to Dealers	Our price to Distributors
F80 Iron	$12.95	$8.42	$7.20
K42 Kettle	13.50	8.78	7.50

Date	Paper	F80 Iron	K42 Kettle	Dealer
Apr.7	Star	$8.95	$	Michael's
9	Telegram	8.95	8.95	Herb Caplan Radio
9	Star	8.60	8.60	Better Appliances
13	T legram		8.95	Danforth Radio
14	Star	8.95		Danforth Radio
19	Star	8.95	8.95	Michael's
19	Star	8.49	8.49	George's
22	Telegram	8.49	8.49	George's
22	Star		.95 (2 only)	Bayview Credit Jewellers
23	Star	8.49	8.49	George's
27	Star	8.49	8.49	George's
28	Star	8.60	8.60	Better Appliances
28	Star	8.25	8.25	Michael's
29	Telegram	.95 (2 only)		Bayview Credit Jewellers
30	Star		7.97	Bayview Credit Jewellers
30	Star	8.49	8.49	George's
May 5	Star	8.25	8.25	Michael's
5	Telegram	8.49	8.49	George's
7	Star	8.49	8.49	George's
10	Telegram	6.50 (4 only)	6.95 (4 only)	Toronto Home Appliances Ltd."

Now, if you would just refer to Exhibits G and H, there are a couple of ads and they show the way the kettle and the iron were featured.

I would like to make a comment that is

not in the brief. I introduced the electric kettle to Canada for General Electric in 1937. In 1938, our first full year in the business, we sold 547 electric kettles in a full year, all across Canada. Now, that kettle we were selling then was just as fast and just as efficient as the kettle we are selling today, but the public did not appreciate what it would do for them, so we sold 547 in a full year all across Canada.

Now, as shown in Exhibit G, I think it is, this one dealer found it necessary in advertising it as a loss-leader to limit his sales to 300. I think he learned from the floor polisher, maybe, he lost too much money.

"EFFECTS OF LOSS LEADERING AND OTHER UNHEALTHY PRICE CUTTING PRACTICES ON THE SMALL APPLIANCE DEPARTMENT AND OTHER DEPARTMENTS OF CGE

"Quantitative Effect of 'Loss Leadering' on our Total Sales.

"In our letter of June 3, 1952, to the Director of Investigation and Research we stated that in certain areas where excessive price cutting and 'loss leadering' had not taken place on our products, (that is, sales overall) sales/were relatively higher than in the areas where drastic cuts had been made in prices.

"The analyses we had made up to that time supported this statement. For instance, the area served by CGE's Saskatoon office (northern Saskatchewan) is relatively isolated. Assuming sales for the first six months of 1950 as 100 in relation to all of Canada, our sales in northern Saskatchewan for the corresponding period in 1952 on the polisher were 97, on the kettle 157, and on the Featherweight iron 135.

"Since making this submission last year, further and much more extensive analyses have been undertaken which show a mixed picture. For instance, assuming 1950 sales in the Maritimes (where very little price cutting has taken place) as a per cent of all Canada to be 100, sales in 1952 and 1953 in the Maritimes as a per cent of all Canada were as follows:

	1950	1952	1953
Featherweight Iron	100	100	99
Kettle	100	76	87
Floor Polisher	100	104	103

"In British Columbia a very serious situation has developed because of the consistent loss leader attacks by Wosk's Ltd. of Vancouver who advertises in both Vancouver newspapers and ships anywhere in the province for a small charge. In contrast, in Alberta although there have

been some, there have been relatively few instances of loss leadering of our products.

"That this Vancouver situation is playing havoc with our sales is shown from a comparison of our total shipments into British Columbia and Alberta for the first quarter of 1954 compared with 1953."

And I must apologize, the brief is not quite as clear as it should be there. I am making a comparison between the first quarter of 1954 and the first quarter of 1953.

"Assuming 1953 shipments to each province to be 100, 1954 shipments are as follows:

	Iron	Kettle	Polisher
Alberta	123	101	121
British Columbia	46	98	51

"British Columbia is a much larger market than Alberta. Department of Trade and Commerce and DBS statistics indicate that in 1951 there were 289,000 domestic electric customers in B.C. compared to 148,000 in Alberta. Yet in the first quarter of this year we shipped substantially more Featherweight irons and polishers into Alberta than we shipped into B.C. Kettles are not included in the comparison since Alberta is a poor market for kettles due to the

prevalence of natural gas."

MR. WHITELEY: Are you implying a situation in 1954 different from some other period?

MR. JENNINGS: Let me get you, sir, I did not get your question.

MR. WHITELEY: You give your figures here for the first quarter of 1954 and state that the B.C. market would be expected to be a much higher market for the particular product you mention.

MR. JENNINGS: Yes, it always has been, sir, for us.

MR. WHITELEY: Have you checked back on that?

MR. JENNINGS: Oh, yes sir.

MR. WHITELEY: There was some other information --

MR. JENNINGS: Yes, I did not put it in here. Perhaps I slipped up there. British Columbia, speaking in round figures, Alberta has been about 60% of British Columbia.

MR. WHITELEY: For polishers?

MR. JENNINGS: Yes, polishers and irons.

MR. WHITELEY: It does not seem to agree with the earlier information you provided to the Commission.

MR. JENNINGS: Would you like me to refer to that? I have it here.

MR. WHITELEY: Take the table for polishers for example.

MR. JENNINGS: Yes, sir. I will accept that on the polishers. When I say 60%, that is a figure that I would apply to products generally, as it has applied, say, for the last, five, eight years.

MR. WHITELEY: Take the figure for the iron in your first table, 1951, 1952 and 1953.

MR. JENNINGS: Yes. Well, if you will go back to 1950 on the iron --

MR. WHITELEY: Then there you can find one year, but the other --

MR. JENNINGS: No, sir, I am only referring you back to 1950. That is a free supply year before the loss-leadering.

MR. WHITELEY: That is, 1951?

MR. JENNINGS: Yes, 1951.

MR. WHITELEY: Have you the similar information for Ontario which you also refer to as a loss-leader carrier?

MR. JENNINGS: I haven't it here, but I could get it for you if you would like to have it.

MR. WHITELEY: I think in view of the illustration you have given on the Toronto market.

MR. JENNINGS: Yes, all right, I will be glad to do that.

THE CHAIRMAN: Yes, the Toronto market would appear to have been the one in which there has been more evidence of that widely advertised price-cutting than in some of these other places.

MR. JENNINGS: I would agree, sir, that the Toronto market is the worst from the stand-

point of the amount of advertising. The British Columbia is the worst from the standpoint of the damage to our relations with dealers, and I think that will perhaps be apparent when we get around to this illustration about Wosk. There have not been as many people advertising it there; there has not been the volume of advertising, but because of this one particular retailer's policy, it has hurt us, seems to have hurt us more, our relations with dealers, than it has here in Ontario. I don't know why.

MR. WHITELEY: I think in the one case it has been sort of intermittent and the other case more persistent.

MR. JENNINGS: No, I think it has been persistent in both cases, but in Ontario here there are more retailers doing it, instead of being concentrated to one retailer. I would be glad to get those figures for you, sir.

> "Floor polisher unit sales for all of Canada in both 1952 and 1953 were greater than 1950, but on the other hand 1952 and 1953 sales of our electric kettle have not reached the 1950 figure, nor will, we expect, our sales in 1954."

I would like just to add a little bit to the brief, on some information that was telephoned to me last night at home from the office where these folks were working it out. These figures are

only approximate, but we made a check on our total distributors' sales, that is, the sales of all of our distributors to retailers in the first 5 months of 1954 as against 1953. The kettle and iron are down about 20%. The floor polisher is about even. The floor polisher seems to have taken quite a jump with this new level of price that has been established under $35.00 here in Toronto and under $40.00 elsewhere.

THE CHAIRMAN: I would be inclined to think from what you have told us about this, the particular individual advertisement and the fact that there were a good many others of the same kind, and the sales, that those merchants made, that there must have been a very large number of floor polishers sold in the Toronto area in the last two or three months.

MR. JENNINGS: There have been a large number, not so much more than there would have been, say, in 1954 in the same period, but the sales have been concentrated in the hands of just a few retailers.

Let me tell you, this is another figure I picked up since the brief was submitted, from D.B.S. statistics. Our percentage market participation on the floor polisher in 1954, that is our total share of the industry, dropped off 20% from 1953.

THE CHAIRMAN: You mean of the floor polisher sales of all kinds?

MR. JENNINGS: Of the total floor polishers sold by all manufacturers, our share dropped off 20% -- I am sorry (this is 1954) in 1953 over 1952, I am sorry.

MR. WHITELEY: Your sales are up but the floor polisher trade has been very substantially increased

MR. JENNINGS: Yes, expressing it another way, while the floor polisher is in that state of gaining public acceptance where sales increase at a rapid rate -- for instance, to express that another way, the floor polisher industry in 1953, according to D.B.S. statistics, is up about 65% over 1950. We as a company are up about 20%.

THE CHAIRMAN: Are there new polishers coming on the market or have there been during those years?

MR. JENNINGS: Yes, there are some polishers that have come on. There are stencilled brands made particularly for the large retailers who used to sell a lot of our machines but who are now not stocking our machine at all.

THE CHAIRMAN: What I was getting at, during the last three or four years has the competition from new varieties, additional makes of floor polishers increased?

MR. JENNINGS: There is one manufacturer in the field that was not in in 1950.

THE CHAIRMAN: Is he in the field in a pretty substantial way?

MR. JENNINGS: Well, I don't know. I think he is in -- well, I don't know what his sales are.

THE CHAIRMAN: What I am getting at, of course, if there is an increase in floor polishers as kinds of floor polishers, or competition from other varities of floor polishers, that might have been a contributing factor to your percentage of the total not being quite as high as it was before.

MR. JENNINGS: That is right, sir, I would accept that, but I am trying to show here that, contrary to what a great many people feel, this loss-leadering and cut-pricing is not expanding our market; that is, as a manufacturer it is not expanding our market.

Now, I would like to make it clear that we, as a manufacturer, take the position that the lower you can get the price to the user the more you can sell, all other things remaining constant.

THE CHAIRMAN: It sounds like good economics to me.

MR. JENNINGS: Well, it is common sense, and if any manufacturer does not accept that principle, he is not going to progress very far. But the point is, our problem is, the other things are not staying constant. The prices are going down in the hands of a few loss-leadering retailers, while the other retailers, the big majority of them used to stock and display and promote our products and they are not giving them the

same effort. That is the point I am trying to make.

I am trying to be fair here. I will agree I made one error in not checking back on these figures. I would change this next paragraph in the light of that last information. I say in that paragraph:

> "Our opinion is that our total sales of Featherweight irons, kettles and polishers during the last 28 months since Section 34 was passed, contrary to what might be assumed by some, are neither much more nor much less than they would have been had this legislation not been enacted."

The change I would like to make there, I would like to say: "until the end of 1953". I would say, in other words, up to the end of 1953 our total volume has been maintained at about normal in spite of the extensive reduction in the number of accounts willing to stock and promote our merchandise.

MR. WHITELEY: These percentage figures you gave us are for the first five months of 1954 and 1953. In other words, you are revising them in the light of these later figures, is that it? You are revising the statement you made earlier in the light of the statistics you now have for 1954?

MR. JENNINGS: Which statement did you

refer to?

MR. WHITELEY: You stated you want to amend the one you have in this brief.

MR. JENNINGS: That is the one in the paragraph I have just read. I would like to take that back from now to the end of last year, because I think this situation caught us up last Christmas. I have always felt it was going to catch up. Loss-leadering, and this is an opinion only, I think initially loss-leadering gives a product a little extra push and makes you sell a little more for a while, and I think it catches up to us, and in this respect it caught up to us about the end of last year.

For instance, two days ago one of our distributors in Hamilton 'phoned up and he said: "Your products are dropping off quite rapidly". He says: "It is surprising how" (naming a name brand)."It is surprising how their products are picking up and myours are dropping off". It is an opinion only but I think that the catch-up time, if I could put it that way, was about the end of last year.

THE CHAIRMAN: That applies to all these products, all of your small products?

MR. JENNINGS: Yes sir.

THE CHAIRMAN: Or to these three particularly?

MR. JENNINGS: Well, the heavier the loss-leaders have been, I think the worse condition

they are in, but these three have been selling in large volume prior to the enactment of the legislation and there has been loss-leadering on other products of ours, other small appliances, but not to the same extent.

"Why we Are Opposed to Section 34.

"The enacting of Section 34 has caused several things to happen which cannot help but have a serious long-term effect on our business. We are therefore opposed to this legislation as it now stands because it:

Permits and encourages loss leadering and other unfair and unhealthy price cutting by opportunists in the retail trade.

"We believe that the material included in this brief and the many newspaper advertisements submitted to the Director of Investigation and Research during the past year prove this statement beyond any doubt. Section 34 penalized us for having done a good job in producing quality products to sell at attractive prices.

"To be useful as a loss leader a product must be well known and have been sold in large volume. We achieved this position by building kettles, irons, and polishers of good quality with fine appearance and outstanding performance to

sell at the right price, thus setting ourselves up as a sitting duck for predatory price cutters to shoot at.

Section 34 enables predatory price-cutting retailers to increase their sales volume to 100 times or more their normal sales rate at the expense of other retailers stocking and promoting the sale of the same product in the same marketing area.

"The experience of the Danforth Radio Company detailed at the beginning of this report (about 800 polisher sales in three days), the New Era sale at $32.95 and $37.75 (149 in one afternoon and evening), and the retailer's statements on pages 183 and 184 of the Commission's published material on Loss Leader Selling (57 in one day), indicate the tremendous increase in sales enjoyed by a retailer advertising a low price. Here are additional specific examples.

from Winnipeg

"On April 16, 1954, Ashdown's retail store advertised the polisher at $43.95 in the Winnipeg Free Press and Tribune and sold 67 in one day. In 1953 they had a similar sale for one day at $49.95 and sold 98.

"On April 28, 1954, Genser's advertised the polisher at $41.99 and sold 51

On April 29th another retailer (whose name we have withheld at his request) advertised at $42.95 but because of Genser's sale at $41.99 actually sold polishers at $41.50, and took orders for over 200. This same retailer in ten months during 1952 sold a total of 664 polishers, approximately 200 of which were also sold during a low-price sale.

from Montreal

"On April 14, 1954, Dalfen's advertised the GE polisher in the Montreal Star at $39.95 and sold 200 polishers in four days. They advertised our irons and kettles at $9.99 and sold approximately 400.

"We believe (and this is an opinion only) that in Toronto at the present time well over 50% of the GE irons, kettles, and polishers sold are flowing through the half dozen or so retailers who are consistently advertising them as 'loss leaders.'

"In view of the fact that our total sales up to this time, or up to the end of last year, are about what they would be normally, the only conclusion that can be reached is that the 'loss leadering' retailers are getting their tremendous increases in volume at the expense

of the many retailers who used to sell a dozen to one or two hundred pieces a year. Section 34 transfers the right to establish prices from us to one or a few retailers in each marketing area who have no investment in the product or the trademark.

"No recital of our problems with 'loss leadering' would be complete without special mention of Wosk's Limited in Vancouver. This retailer who sells furniture, stoves, major and small appliances, hardware and television sets, has been one of the most consistent and persistent users of our products as 'loss leaders' in all of Canada. His activity is proof of how one retailer can set the price for a whole province. In the $5\frac{1}{2}$ month period from October 21, 1953, to April 3, 1954, he advertised our floor polisher at least 64 times in the Vancouver Province at $44.75. During the same period he advertised the Featherweight iron 54 times at $9.95 and the kettle 45 times at $9.95. There was approximately the same amount of advertising by Wosk's in the Vancouver Sun. All other retailers in Vancouver during the same $5\frac{1}{2}$ months advertised the polisher 5 times, the iron 9 times, and the kettle 6 times in the Vancouver Province."

I might say, sir, although I don't wish to load

you folks down with a heavy weight of exhibits, if you would like to have these sometime, these are the tearsheets in which the 64 ads appeared on the kettle and the 54, the ones I have detailed in the exhibits. I will be glad to give them to you if you want them.

THE CHAIRMAN: Are they very similar advertisements in all cases?

MR. JENNINGS: Generally, yes.

THE CHAIRMAN: Or some special features?

MR. JENNINGS: No, generally the same type of thing. I thought you might like to check my listing back.

THE CHAIRMAN: We will take your word as to the number there were. It is a question of whether it would be worth our while to look at all of them.

MR. JENNINGS: No, I don't think it would be worth your while. They are all there. That is what the listing was made up from.

> "The Vancouver newspapers have wide circulation throughout the province.
> For instance, in Dawson Creek, which is 1331 rail miles from Vancouver, 26% of the homes get the Vancouver Province. Exhibit I shows the circulation of the two Vancouver papers in several typical B.C. cities and towns."

I would just ask you to refer to Exhibit I for a

moment. I won't go over all these, but it is very interesting to see the large percentage of people who buy the Vancouver papers. I don't think it is necessary, sir, to go over that list of the Wosk advertisements with dates. I think that we could pass that up.

> "Wosk's 'loss leader'advertising has disrupted the whole marketing picture in British Columbia in that he will ship small appliances anywhere in the province for 50¢. Exhibit M.6 from a retailer in Dawson Creek, B.C., is indicative of the criticism we get daily because of Wosk's activities."

I would like just to read that Exhibit M.6 at the moment to tie it in. This is from an appliance retailer in Dawson Creek, B.C.:

> "We are enclosing a copy of a letter from Wosk's Ltd. in Vancouver that was addressed to one of our customers in Pouce Coupe. These people like to support home industry but how can they do so when they can buy from Wosk's at approximately the same price that we buy wholesale from the Canadian General Electric Company.
>
> "Is there no way to stop this wholesale slaughter of a nationally known brand line like General Electric. It leads us to believe that we are not getting

a fair deal price-wise from your Company inasmuch as we know that Wosk's are certainly operating at a profit or they could not stay in business.

"If we are to continue handling General Electric products, we insist on being placed on the same buying basis so that we can compete on a fair and equitable basis. Your comments on this matter will be appreciated."

"Figures supplied to us by our distributors . . ."

And I might add that these again gave us only an opportunity to make a reasonable estimate:

"Figures supplied to us by our distributors indicate that Wosk's are now doing 15% to 20% of our total small appliance business in B.C. The progress of this retailer to the point where his annual volume is in excess of $2,000,000, with five stores in operation and two more planned, is proof of the effectiveness of loss leadering. <u>Wosk's is not a low-cost, efficient retailer</u>. His operating expenses, at about 33 1/3 of his purchase cost, are about average for incorporated appliance and furniture stores in Canada, most of which have much lower volume."

I might add, gentlemen, that that is confidential

information which I have and I will be glad to disclose the source of it if you would like to have the source of that statement of the 33 1/3% operating cost.

THE CHAIRMAN: I think perhaps we might like to have that.

"Section 34 forces dealers who cannot afford to handle our small appliances and meet the loss leader prices to make disparaging statements about them to the public in an effort to sell another brand on which they can make a satisfactory margin.

"Last year we approached one of the clerks in a very large reputable store in Toronto and asked for a GE polisher. The clerk's reply was about like this, 'We haven't been able to get them for some time. CGE had so much trouble that they had to shut down production to make replacement units.'

"This comment is typical of many, many similar statements that are being made every day."

That happened to me incidentally.

"Section 34 reduced drastically the number of both large and small retailers willing to stock, display and promote our products.

"A very important contributing factor in helping us to develop large volume sales on irons, kettles and polishers has been the mass exposure of these appliances to the public in thousands of retail stores across the country. Small electrical appliances have been sold by department stores, electrical dealers, hardware dealers, jewellers, and others. Since Section 34 was enacted, the large departmental stores who used to be our best outlets have either withdrawn our products from sale entirely or have transferred the greater part of their sales effort to their own brands. For instance, in 1949 the T. Eaton Company College Street Store in Toronto sold 6% of all the GE floor polishers that were sold by all retailers in Canada. Now this store does not stock or display the GE polisher. Hardware stores who used to account for a substantial portion of the small appliance business are in many cases not selling small appliances at all or are not promoting them aggressively as a larger and larger percentage of the total sold is flowing through a few retailers who are using them as loss leaders.

"In March 1954, as a test, we mailed 32 window displays for the iron and kettle to retailers in Vancouver, B.C.

Two weeks later we interviewed the dealers and found only 6 of the 32 displays in use. Dealers were very bitter in their comments, three samples of which are listed below.

"James Radio, 909 Granville Street, Vancouver.

"'Yes, we received cards out as you see there are none around. As I told you in previous interviews, the way they are kicking these appliances around we might just as well throw the material away.'"

"Bell Electric, 2141 West 41st Avenue, Vancouver.

"'I'll sell off the three or four kettles and irons I have here. Can't afford to keep $100 tied up in stock that won't move unless I sell at a loss.'"

"Loftus Bros., 3191 Oak Street, Vancouver.

"'Browned off on small appliances. No use in trying to sell them any more. Now losing money on them.'"

<u>Section 34 has torn our prestige and good will with retailers to shreds.</u>

"In 1950, because of the pioneering job we had done in manufacturing and marketing the Featherweight iron, the electric kettle, and the floor polisher, our company and our small appliances were highly regarded by retailers all across Canada. Today the majority of retailers feel that

we are in favour of, and are encouraging, the excessive price cutting that is going on and are convinced that they are being discriminated against with regard to their purchase price and that this discrimination is CGE's fault. How many retailers in Toronto and other centres where the Toronto Star and Telegram have a big circulation will ever believe that Danforth Radio Company bought several hundred GE floor polishers at $35.43 each and sold them at $33.85? Section 34 damages the value of our products in the eyes of the public, particularly as gifts.

"Approximately half of the irons and kettles we sell are purchased for use as gifts. Many people are naturally reluctant to give something as a gift that is being advertised widely as a loss leader. Section 34 discourages retailers from doing the creative selling necessary to gain public acceptance of new products which are not yet in general use.

"The floor polisher example illustrates the important part dealers play in introducing a new product and promoting it during the period when it is struggling to gain public acceptance. Why should a group of retailers work hard to get a new product moving in good volume so

that the cut-price operators can then use it as a loss leader?"

I would just like to show an example here. I don't know whether we need to put it in as an exhibit. I have an example here of what I call a creative selling type of ad, and this is from Ottawa incidentally where conditions are not as bad as they are in some other centres, but this is an ad on our cleaner which indicates what the cleaner will do, tells you something about it and what it will do. That is a bit of creative selling.

I will show you the other example that I am speaking of. Here is an example of an ad which does not shout: "we have got this stuff lower than anybody else." That is an ad that has all the accent on price. Incidentally it has got our kettle in there at $7.95 and I was very interested this morning -- the T. Eaton Company have not bothered us too much --

THE CHAIRMAN: I thought they were not handling your products?

MR. JENNINGS: On the polisher, they are not in Toronto but they apparently got some kettles, because they have got them advertised in the Globe and Mail this morning at $6.95. At least I would assume they had some.

I don't imagine you would need those but would you like them?

THE CHAIRMAN: We have seen a good many advertisements.

MR. JENNINGS: I don't think you need those.

THE CHAIRMAN: I think we know the type fairly well by now.

MR. JENNINGS: Here is what some retailers have had to say to us. These are just extracts to illustrate certain points.

"Because of General Electric policy we now find 'G.E.' products are being sold at prices below a fair margin of profit, thereby severely penalizing smaller business, such as ours.

"Our policy is not to be undersold by anyone. If we find any of our products are being sold below a fair margin of profit, we discontinue the line.

"Our experience is that six out of every ten customers actually buy the products their dealers recommend, and we believe that customers will still continue to come to us, the hardware dealer, for advice and information on what to use to maintain their homes. Our sales staff will be instructed to influence them to buy other lines of equal quality which will show us a fair margin of profit."

"Another dealer says: 'We would like to go on record as having lost all interest in this line. Competition is using it as a loss leader in order to build traffic or enhance the prestive of their other lines.

"This type of advertising embarrasses us, as our customers, when they read competitive loss leader advertising, feel that we are asking too great a profit. They reason, if we are asking for too great a profit on some items, we must necessarily be asking too much on the entire line.'"

"Another dealer says: 'How can the good electrical franchised dealer keep good customer relations when they sell at the supposedly list prices and other dealers sell at cost giving the customer the impression we are robbing them?'"

"Another dealer says: 'At present it is not profitable or wise for us, a General Electric Major Appliance Dealer, to merchandise General Electric Traffic Appliances. The reasons for which are as follows: These items are being sold by other classes of merchants as loss leaders to promote a sale of other merchandise. We are embarrassed when we ask a reasonable price for these Traffic items because people see a loss leader advertisement and feel that we are asking too great a profit.'"

"Another dealer says: 'It is with regret that we wish to advise you to take our name off your list of appliance dealers.'"

"And here is one from Mr. Rhodes' own

city: 'Our stock of polishers happens to be down to one. This we'll have to sell for $39.95 but for the life of me I cannot bring myself around to ordering any more. They are using your high quality and the high public acceptance of your name to attract suckers as they call them (customers to us) to buy their cheap, highly overpriced furniture. ... Radios and electrical appliances do need the odd bit of looking after and I would like to take you, or better still the Prime Minister and members of the Combines Investigating Committee into these stores with an article purchased from them that wasn't operating perfectly and see the abuse and lack of service they receive. It is atrocious. The whole situation will probably boil down to many independent retailers going out of business broke and some of the others remaining adopting all the unscrupulous practices of these others if something isn't done to curb it.'"

If you are going to Winnipeg, sir, I will give you that man's name. He says he would like to take you in.

THE CHAIRMAN: Up to the present we have not had any requests from people in Winnipeg that they want to talk to us.

MR. JENNINGS: They are a little bashful.

Another dealer says: "is there no way to stop this wholesale slaughter of a nationally known brand line like General Electric? It leads us to believe that we are not getting a fair deal price-wise from your Company. If we are to continue handling General Electric products, we insist on being placed on the same buying basis so that we can compete on a fair and equitable basis."

EFFECT OF 'LOSS LEADERING' ON THE APPLIANCE DEALER

(1) Loss Leadering and other forms of price cutting pose a serious public relations problem for the retaildr. It is only natural that a retailer does not like to be undersold by other retailers on identical merchandise. When appliances are being used as loss leaders the retailer who tries to get a price which gives him a markup over his cost sufficient to cover expenses and leave him a return on investment is taking the chance of creating the impression that he is a 'high markup' outlet, which can have a serious effect on his overall business. His alternative is to meet the loss leader price or not offer the product for sale at all.

(2) It reduces the sales volume and increases the operating expense ratio of retailers who lose business to the predatory price cutters.

(3) It contributes to the increasing rate of business failures.

EFFECT ON THE CONSUMER

"While loss leadering and other unhealthy price cutting have been responsible

for enabling some consumers to get outstanding bargains, we believe this practice will operate to the disadvantage of the consumer in the long run in these ways:

(1) By discouraging manufacturers and retailers from doing a normal amount of creative selling, it will hold back the development and gaining of public acceptance of new products.

(2) It often sends consumers running all over a metropolitan area on wild-goose chases after bargains. In many cases the alleged 'bargain' does not exist. Retailers often advertise products at low prices as 'come ons' when they have little or no stock.

(3) In some cases other merchandise which is no bargain at all is bought by the consumer as a result of the loss leader advertising.

"From a long-term standpoint real and lasting bargains for the consumer can come only through new and better product designs and new mechanization and manufacturing methods which result in doing the total sales and educational job at lower cost. The loss leader and cut-price approach permits a few retailers to bring consumers some bargains temporarily at the expense

of other retailers and manufacturers. There would be no problem in selling milk profitably at a cut price if all you had to do was milk someone else's cows."

I would like to add in here that I am sure the Chairman of the Commission would appreciate that, if the laws of the land permitted me to go onto his own place and do some predatory binding of wheat, I could undersell the Canadian Wheat Board and make a handsome profit.

THE CHAIRMAN: You would have an awful time finding a way in which to sell it.

MR. JENNINGS: I would bring it down here perhaps to sell it to the mill.

I would like to say that that example, milking other peoples' cows or picking apples out of other peoples' orchards or picking grain on someone else's ground, is exactly what the Wosks and the Gensers and New Era's and so on are doing. They are not doing their proper share of the total sales and educational job.

"WHAT IS A LOSS LEADER?"

"We believe it is quite common practice for people who think the problem through to associate 'intent' with loss leadering, that is, to think of some motive behind the price cutting other than that of making a profit on the particular product featured."

THE CHAIRMAN: You mean, if it is a genuine loss-leader they do not make much profit on that product, if it is really a loss-leader they are not making much profit on that product?

MR. JENNINGS: I do, sir.

THE CHAIRMAN: Therefore, there must be some other reason?

MR. JENNINGS: That is right.

THE CHAIRMAN: That is why you would look for an intent.

MR. JENNINGS: That is right.

"When a product is used . . ."

And I am speaking of the intent in the second paragraph:

> "When a product is used by a retailer as a loss leader, the intent may be to create the impression that everything the retailer sells is a corresponding bargain; to attract store traffic which can be sold other items on which the retailer makes a longer margin; to increase overall sales volume; to go another price cutter one better ..."

And we heard that from Mr. Lewis yesterday.

> ". . . or to injure the manufacturer or distributor for some actual or alleged sins of omission or commission.
>
> "Everyone will agree, we think, that when a retailer features a product in his advertising and sells recently acquired

stock below his net purchase cost, he is using the product as a loss leader. Some would stop here."

I might add to the brief, we would not, but some people would.

"Others would consider it a loss leader if it were sold below the retailer's purchase cost plus a markup to cover his operating expenses. Few people, we believe, would think of a special sale on which the retailer made a profit as loss leadering.

"Because of special characteristics of the small appliance business, it may be possible to make money on a sale with a low markup over cost through cashing in on the sales effort of other retailers who sell the same product in the same marketing area. The following quotation from a retailer -- from pages 183 and 184 of the Restrictive Trade Practices Commission's report on Loss Leader Selling 1954 -- illustrates this point:"

And it became apparent yesterday that Mr. Wadley from Windsor wrote this letter:

"'For example, we used to sell about six General Electric floor polishers a year at a retail of $64.50. We purchased several hundred last June at a cost of $38.70 and advertised them as a special at $44.95. In one day we sold fifty-seven polishers

making a gross profit of $356.25. The sales staff handled the volume and as all our sales were cash and carry, we consider that the sale was very profitable to us.'"

"Note that this retailer, by his own admission sold nearly 10 times as many polishers in one day as he used to sell in a year. This ability of a retailer selling GE small appliances to greatly increase his sales volume at the expense of other retailers stems from several factors. Small electrical appliances have catalogue numbers and a majority of the public appreciate that products bearing the same catalogue number do not vary in quality and are the same in every store. They sell for high enough prices (compared with such items as canned peas, aspirin tablets and cigarettes) to justify travelling across town to get a bargain. Small appliances last for many years and most people think about buying them for some time before they make a purchase. For this reason there exists at all times in every large centre, a group of people who have made up their minds to buy but have not decided on the exact time. These are the people who rush to buy at a bargain price.

"<u>Price-cutting practices which have resulted from the passing of Section 34 that</u>

are not 'loss leadering' in the generally accepted sense of the term are in many cases just as damaging. This is why in the preparation of this brief we have several times coupled with the term 'loss leadering' the additional phrase 'other unfair and unhealthy price-cutting tactics.'

"Because of the variation in marketing practices, in the frequency of purchases by users and in margin requirements for those engaged in distribution of products ranging from mink coats to soap flakes, we question the possibility of anyone coming up with a definition of a 'loss leader'which would be used universally as a basis for enacting workable legislation which would do an effective job in preventing loss leadering and other excessive price cutting in all classes of goods. For this reason we believe that the right of a manufacturer to exercise control over prices on his own products bearing his own trade-marks should be restored through the rescinding of Section 34.

"It should be remembered that if a manufacturer is to be successful in the highly competitive appliance business, he must, for his own self preservation and progress, show a continuing and active interest in getting his products to the public at the lowest possible prices

consistent with providing margins for distributors and dealers to cover their operating costs and leave them a reasonable return on investment when they perform their true functions. We are proud of the fact that in the process of establishing our Featherweight iron, kettle and floor polisher as outstanding 'loss leader' products during the years 1947 to 1951 we did exactly this. For instance, in 1939 the GE automatic iron and kettle of that day had a suggested retail price of $8.95. The same year average hourly earnings in all manufacturing industries in Canada were 43¢. By 1950 these earnings had increased to $1.04 per hour, or 142%. In the same period the increase in our suggested retail price of the kettle and iron was only 40% -- from $8.95 to $12.50. This reduction in the real price had been accomplished through the very effective use of mechanization and other cost-reduction measures and through keeping distribution costs to a minimum.

"The measure of our success in making available better products at lower prices in terms of hours of labour is pointed up by a comparison with what happened to the price of wheat during the same period. For the 1939-1940 season the average price per bushel quoted Canadian

millers for #1 Canadian wheat in store at Fort William was 76 cents. For the 1950-51 season the price established by the Canadian Wheat Board was $1.80 -- an increase of 135% over 1939. For the same period the increase in the price of bacon was 126%, flour 135%, sirloin beef 199%, and butter 122%.

"Had the price of our iron and kettle followed the price of the undermentioned commodities from 1939 to 1950, instead of $12.50 they would have been priced as follows:

	Price would have been not $12.50 but
Cost of living	$14.60
Food	18.30
Clothing	16.05
Home Furnishings & Services	14.75
Average hourly earnings in manufacturing industries	21.60

"The present price level of between $8.00 and $9.00 established on the iron and kettle by the 'loss leadering' dealers is completely unrealistic and out of line with the price of most other goods and services."

Then the last section of the brief deals with:

"ARE THERE ANY ALTERNATIVES TO RESCINDING "SECTION 34?

"Broadly speaking, two alternatives

have been suggested:

'<u>Alternative #</u> 1

"This involves amending existing legislation to prevent a retailer from using a manufacturer's name or trademark or an exact illustration of a manufacturer's product if he advertises at a price lower than that concurred in by the manufacturer. This recommendation was advanced by a retailer and is reported in the material published by the Commission on Loss Leader Selling in these words:

'<u>Recommendation</u>: That price fixing legislation be continued as is, with but one reservation, namely, when a dealer uses a trade name of any product or illustration of the product in any advertising, that the owner or distributor of the product advertised or illustrated, may insist that he does not quote a price, or that if he does quote a price, then it is the suggested list price of the manufacturer unless otherwise exempted by the manufacturer.

"'At first glance, this recommendation may seem to defeat the purpose of the legislation, but it does no such thing. The dealer can still sell the product at any price he desires which is permitted by law. He can still advertise the product at a cut price by <u>description</u>, but NOT

by trade name or exact illustration. It gives him lots of leeway to promote his business, promote competition, but at the same time, it protects the manufacturer - who is entitled to protection of his heavy investment. Under this system, the manufacturer's product will still be acceptable to other dealers.'

"It seems to us . . ."

That is, to the Small Appliance Department.

". . . that this approach presents two problems. The first problem is the definition of what is 'advertising'. The thing that comes to mind first, naturally, is newspaper advertising. It is certainly a fact that loss leader and other excessive cut-price advertising in metropolitan newspapers does a tremendous amount of harm to retailers not only in the metropolitan centre but in cities and towns located far away. To eliminate this advertising would undoubtedly help the present chaotic situation but in legislating against 'advertising' it would be necessary to spell out in detail what the term means. For instance, we would assume that a retailer should have the right to display the product within his store at the price he is asking. Would it be fair to permit a retailer in an outstanding traffic area where several

thousand people passed by every day to put in a window display with the price, and deny a small retailer located on a side street the right to distribute two or three thousand handbills with the name of the product and the price?

"The second problem is the problem of deciding whether or not the illustration used is that of any particular manufacturer. Slight changes could be made which would still leave the impression generally with the public that it was a well known product that was being offered. In policing an amendment of this nature who would decide whether or not the illustration was acceptable?

"Alternative #2.

"The second alternative which has several variations is for the government to make it illegal for a retailer to sell at a price below some specific markup over his cost, or at least to give the manufacturer some redress (perhaps the right to withhold merchandise) if the retailer sells below the specified markup. Three variations of this broad alternative, with comments, are considered here:

(1) A Standard markup over cost for all Classes of goods.

"Because of the difference in the

cost of selling products such as cigarettes and groceries compared to ladies' dresses or electrical appliances, it does not appear that this suggestion is practical. The markup would have to be so low that it would be ineffective in giving relief on items where the average cost of doing business is in the higher brackets. There seems to us to be plenty of evidence from experience in other countries that this is not an effective approach.

(2) <u>A markup for each individual retailer equal to his average cost of doing business plus a reasonable return on his investment.</u>

"At a quick glance this seems to be very reasonable but on analysis you come up with the conclusion that this would merely transfer the right to set the price from the manufacturer to the one retailer in a marketing area who had a combination of the best buying ability and the lowest operating cost. It should be noted here that low operating cost on the part of a retailer comes not only from being efficient, but more importantly, from being adept at taking advantage of the efforts of others.

(3) <u>A variable markup over the retailer's net purchase cost depending on the class of goods involved.</u>

"This seems to us to be the most

practical of the three variations. It would involve the government establishing in some manner a permissible minimum markup on things like furniture, groceries, cigarettes, electrical appliances, etc. Perhaps existing information issued by the Dominion Bureau of Statistics or information they could gather could be used. For instance, for electrical appliances perhaps the minimum markup over purchase cost could be the average overall operating cost of incorporated electrical appliance stores, which would be, we believe, in the order of 30% or a little more."

I might say there that D.B.S. have told us that they propose to issue statistics on the cost of operating incorporated electrical appliances as well as the unincorporated. They have issued the unincorporated and they are going to add that, they tell me.

"If it were felt this did not provide sufficient room for an efficient retailer to manoeuvre, some stated reduction from this figure could be made, such as 5%. We do not believe it should be made illegal for a retailer to sell below this minimum markup. If such an amendment to the existing legislation to deal with loss leadering were passed, we feel it should limit its scope to giving a manufacturer or distributor the right to withhold merchandise from retailers who offer it for sale below the estab-

lished markup."

In conclusion:

"The widespread loss leadering and other excessive price cutting on our small appliances has resulted in a progressive and serious deterioration in the marketing conditions that obtained prior to 1952. The control of prices has been transferred from us to a handful of retailers across the country who are using our products and our prestige and good will for their own gain.

"Hundreds of retailers who used to stock and promote the sale of our small appliances have had enough and more are joining them on the sidelines every day. Many retailers who see their competitors taking advantage of their sales efforts and who do not appreciate how tightly our hands are tied by the existing legislation blame us for the situation that has develOped.

"The slow erosion of our prestige and good will with retailers which is now in its third year cannot but be reflected soon in lower sales which will mean higher manufacturing costs and higher prices."

And I would add now from those figures I got last night, it seems certainly to be here.

"We concur wholeheartedly with the conclusion in the Lloyd Jacob Report that a manufacturer should have the right to

refuse to supply his products to retailers who use them as loss leaders. We further hold the conviction that the interests of all would be best served by leaving the determination of what is a loss leader to the manufacturer of the particular product involved. If, however, the government is not prepared to give manufacturers this freedom to protect their brand names and good will, then as an alternative we favour the establishing by the government of a minimum markup over the retailer's purchase cost for each class of goods -- a markup that is tied in with the average cost of doing business on the products involved. Goods sold by retailers at less than this markup would automatically fall into the category of loss leaders, and manufacturers or distributors should then have the right to withhold further shipments if they wish to do so.

"We respectfully recommend that some positive action be taken quickly to correct the present situation."

I don't think I need to read those letters, sir, in the back.

THE CHAIRMAN: Mr. Jennings, you have given us a certain amount of comment as you went along. Do you wish to add anything further in connection with the brief at this time?

MR. JENNINGS: No, I don't think so, sir.

THE CHAIRMAN: And Mr. Wilde or any others appearing for the company, do they wish to add anything? Then I would ask if Mr. Wickwire has any questions?

MR. WICKWIRE: I have a few, Mr. Chairman. Mr. Jennings, is it possible on any occasions that some of the dealers of whom you complain in the brief, can purchase your small appliances from distributors at less price than the suggested price?

MR. JENNINGS: Yes, sir. I might say that that is the reason that we put the distributor's price in the brief, so as to indicate the price at which we sell to the distributor and so that you could take the difference between the distributor's price and the price the retailer gets, and that is the total amount of money available to the distributor and to the retailer for performing both functions.

MR. WICKWIRE: My point is that what on the face of it might appear as a sale below the laid down cost to the dealer, might not in all cases be that.

MR. JENNINGS: If you are saying that a sale below the suggested price might not be a loss-leader in accordance with your definition of net purchase cost, I would agree, yes, he might have bought it below.

MR. WICKWIRE: On page 8 of your brief you

spent considerable time on it and I think you made one variation in it:

"Floor polisher unit sales for all of Canada in both 1952 and 1953 were greater than 1950, but on the other hand 1952 and 1953 sales of our electric kettle have not reached the 1950 figure, nor will we expect our sales in 1954"

MR. JENNINGS: Yes sir.

MR. WICKWIRE: Now, was 1950 an all-time high?

MR. JENNINGS: On those three products?

MR. WICKWIRE: Well, on kettles.

MR. JENNINGS: On the kettle, iron and polisher?

MR. WICKWIRE: Yes.

MR. JENNINGS: It was an all-time high on the kettle and an all-time high on the iron, but not on the polisher.

MR. WICKWIRE: Not on the polisher?

MR. JENNINGS: No, we say here that our sales in 1952 and 1953 on the polisher exceed 1950.

MR. WICKWIRE: The polisher was a newer product?

MR. JENNINGS: Yes, it was going up there that 5 to 10% saturation figure, it was increasing rapidly in public acceptance.

MR. WICKWIRE: What about 1951?

MR. JENNINGS: Sale of polishers?

MR. WICKWIRE: Not polishers, kettles and

irons.

MR. JENNINGS: On the irons, in 1951 iron sales were less than they were in 1950.

MR. WICKWIRE: In 1952 they showed a substantial climb again?

MR. JENNINGS: That is right, and I would like to add though that we were faced in 1951 with an increase in price because of the excise tax. The excise tax went on at 15% in 1950 and went up to 25% in, I believe it was, April of 1951.

MR. WICKWIRE: But in 1951 you were faced with the tax but you were still able to maintain a price --

MR. JENNINGS: That is right.

MR. WICKWIRE: Throughout the whole year.

MR. JENNINGS: We still had that legal right, yes.

MR. WICKWIRE: And I take it that you did maintain a price?

MR. JENNINGS: I think that is general, although I must say that there was considerable price confusion because of Mr. Abbott's taxes. We had a price of last year, from memory, it was $12.50 on the kettle before the tax came on and then it went up when the tax went up, it went up to $14.50 and then it went up to $16.50, so there were three different suggested prices at one time on the kettle and I believe the iron was the same price.

MR. WICKWIRE: Well, in any event 1952 showed

a substantial increase over 1951, did it not?

MR. JENNINGS: Yes, that is right. The tax came down in 1952 again.

MR. WICKWIRE: For irons?

MR. JENNINGS: Up and went down again, on all products.

MR. WICKWIRE: And 1953 showed another increase over 1952?

MR. JENNINGS: Yes, that is right. On which product?

MR. WICKWIRE: On the iron.

MR. JENNING: That is right.

MR. WICKWIRE: Now, on the kettle you were down in 1951 over 1950, were you not?

MR. JENNINGS: That is right.

MR. WICKWIRE: And in 1952 you started to come back?

MR. JENNINGS: Yes.

MR. WICKWIRE: On the basis of your 1950 figure?

MR. JENNINGS: Yes.

MR. WICKWIRE: And in 1953 you were back to 1950?

MR. JENNINGS: Substantially, yes, almost the same.

MR. WICKWIRE: Now, in your polishers, in 1951 you increased the sales over 1950?

MR. JENNINGS: That is right.

MR. WICKWIRE: And in 1952 you had a very substantial increase over 1951?

MR. JENNINGS: That is right.

MR. WICKWIRE: And in 1953 you had an all-time high?

MR. JENNINGS: That is right, but I would like to add or again emphasize what I said earlier, that in 1950 our percentage industry participation dropped 20%, or our share of the industry dropped 20% in 1953 as compared with 1952.

In other words, the industry from 1950 -- and these figures are approximate -- from 1950 to 1953 the industry went up about 66% and we went up about 20 or 25%,in that order.

MR. WICKWIRE: I think someone suggested that you had a competitor come into the field on the floor polisher. When did he come in?

MR. JENNINGS: He was in this last year. I am not sure of the exact date when he came in. He is now making stencilled merchandise for the people who use it to re-sell our products.

MR. WICKWIRE: Would it have some effect, the fact that you have a competitor in the field, have some effect on the 20% drop?

MR. JENNINGS: I would think so, yes, some effect.

MR. WHITELEY: Is there not another one or more manufacturers who in that period adopted somewhat the same type of polisher as your own who had not previously that particular type?

MR. JENNINGS: When I say one manufacturer came in the field, sir, this one manufacturer is

making what we call stencilled merchandise and he is putting several different names on substantially the same machine. So it might appear to the outsider that there were several new manufacturers in the field.

MR. WHITELEY: What I was thinking is that there is a manufacturer of vacuum cleaners whose floor polisher I see in certain store windows, and I do not recall that that particular manufacturer of vacuum cleaners had many years ago a polisher of that type, is that correct?

MR. JENNINGS: Would you name the manufacturer?

MR. WHITELEY: Hoover vacuum cleaners.

MR. JENNINGS: Well, Hoover introduced their floor polisher, I think it was, either 1949 or 1950.

MR. WHITELEY: Two-brush type?

MR. JENNINGS: Yes sir.

MR. WICKWIRE: Mr. Jennings, it has been suggested in many places, and I would like to have your opinion on it, that the fact that a manufacturer can suggest a resale price opens the door to price-cutting, that it gives the dealer and the public, the dealer particularly, an object to shoot at, and that in furtherance of that question, if a manufacturer did not set a suggested retail price, that it would go quite a long way in controlling the situation that you complain about today.

MR. JENNINGS: Let me say first that the establishing of suggested list prices on some appliances in my opinion contributed to the loss-leader attacks that have been made on our products. Now, you would like that part of the answer. It contributed because it was responsible, in our opinion, for helping us to obtain a large volume of sales and production.

I think I could make my point if I refer to the floor polisher. We introduced the floor polisher in 1949 at $59.50. At that time there was another two-brush machine on the market at $89.50.

MR. WICKWIRE: That is an imported machine?

MR. JENNINGS: No, it was made in Canada.

MR. WICKWIRE: Not comparable to your machine?

MR. JENNINGS: Well, it was the same type, same general type of machine. It was not comparable from a performance standpoint. It was the same type of machine but it was $89.50.

Now, I made a serious statement at the start when I said that we are proud of the low suggested retail prices we have. In 1949 we were proud of the fact that we had been able to design and engineer a floor polisher to sell as low as $59.50, so that we were spending a lot of money to promote the polisher.

Now, our position is this. We have a new product that no one knows about, so you put it on

the billboard or put it in the paper and the public may say: "That is a good idea. I wonder what it is, $100.00, $125.00, or $89.00?" We were proud of the $59.50 figure and we wanted to tell the public: "We have brought you a new type of product which will do a lot of things for you and it is only $59.50."

MR. WICKWIRE: Well, would you suggest that if a dealer can sell that product to a customer at a profit to himself and that the customer buys it at less than $59.50, that the customer should not have it?

MR. JENNINGS: If it were possible to maintain a price range which reflected only the differences in efficiency of different retailers, I see no reason that it would be harmful in letting the floor polisher or any other product fluctuate around within that relatively narrow range.

The crux of the problem is this. Men such as the one we heard from yesterday, "Mr. New Era", have a low operating cost. Now he has a low operating cost, he is efficient, I will grant him that; he is a good buyer, he has been a smart manager. But the biggest contributing factor to his low operating cost is his skill in taking advantage of the efforts of other retailers and of manufacturers, and the case of the one down in Windsor is the same example, this dealer in Windsor who made money -- and I grant you he did, I will accept his statement -- he made money selling

people polishers at $44.95, but he has only made money because he was picking apples out of other people's orchards. He did not contribute his share of planting the trees and so on.

MR. WICKWIRE: Did you see the picture of his establishment and what he does for what you term creative selling?

MR. JENNINGS: No, I did not see that.

MR. WICKWIRE: Did you see the pictures of his maintenance fleet?

MR. JENNINGS: No, but I heard him say that he made an average gross profit on everything he sold of 30%, and he is not making anything like 30% on our products.

MR. WICKWIRE: Did you hear him say that his average cost was 20%?

MR. JENNINGS: He said substantially over 20% according to my notes, yes.

MR. WICKWIRE: He did not say 33%?

MR. JENNINGS: No. I made some notes at the time and I think he said it was over 20%.

MR. WICKWIRE: Did you hear how many years he said he had been in business?

MR. JENNINGS: I did, but I have forgotten.

MR. WICKWIRE: Did he say how many employees he had?

MR. JENNINGS: Yes, I think it was --

MR. WICKWIRE: What do you say about -- you were here yesterday?

MR. JENNINGS: Yes.

MR. WICKWIRE: What do you say about the statements given by Mr. Black?

MR. JENNINGS: What would I say about them?

MR. WICKWIRE: Yes, in comparison with, you mentioned New Era?

MR. JENNINGS: Would you name the statement that you are referring to? You made quite a few.

MR. WICKWIRE: About his attitude on merchandising.

MR. JENNINGS: I think that you might describe Mr. Black's attitude, it is perhaps a bit of a facetious statement: If you cannot correct a racket, you had better get into it.

MR. WICKWIRE: I just want to get your reaction to a customer buying something at less than suggested price, and you say it is a racket, is that it?

MR. JENNINGS: What did you say?

MR. WICKWIRE: It is a racket for a customer to buy an article at less than --

MR. JENNINGS: I didn't say.

MR. WICKWIRE: Well, am I to take that inference?

MR. JENNINGS: No.

MR. WICKWIRE: You suggest that one of your objections to Section 34 is that it transfers the right to establish prices from "us" to one or a few retailers in each marketing area who have no investment in the product or the trade-mark.

Now, I take it that retailers are in business of distributing products to the public?

MR. JENNINGS: That is right.

MR. WICKWIRE: Including your products?

MR. JENNINGS: Yes.

MR. WICKWIRE: Should they not be in a position to know what they should sell the product for? Who is in the better position, retailers or the manufacturers, to know what --

MR. JENNINGS: I would think a manufacturer.

MR. WICKWIRE: You are speaking now of brand name products only, are you?

MR. JENNINGS: Oh, yes.

THE CHAIRMAN: You are not meaning to go so far as to say that the manufacturers should know more about the retailer's business than the retailer knows himself, are you? You don't really mean that?

MR. JENNINGS: I wouldn't say that, but I do say this, that the manufacturer has access to and can obtain quite readily a lot of information on the average cost of doing business on the part of retailers who perform their proper sales function. I do not agree that a retailer should be able to cash in on the sales efforts of other retailers, any more than I believe that someone should be permitted to go in and milk someone else's cow.

MR. WICKWIRE: But which do you say is the more compelling force in the sale of a product,

the creative selling that you have described or price?

MR. JENNINGS: Well, let me first say this. I will repeat a statement I made earlier, that all other things being constant, in the distribution picture, the lower you can get the price of your products the more you can sell, but the trouble with this present situation, that is, the loss-leadering that is going on, is the things not remaining constant in the picture. We are having people sell at low prices to attract customers and for other reasons, and they are not doing a normal share of the work.

MR. WICKWIRE: I suppose what you are suggesting, perhaps your brief suggests, is that you have got to do the creative selling first.

MR. JENNINGS: That is right.

MR. WICKWIRE: In order to get a demand for the product.

MR. JENNINGS: For instance, I mentioned that in the first full year that we were in the electric kettle business -- and you have a lot of sales figures on kettles now which I have given you on a confidential basis -- the first full year we were in the business we sold 547 all across Canada.

Now, here are some of the things that you have to do to get that. We had first to get that product accepted by our dealers and distributors. So at that time our salesmen went up and put on

speed demonstrations in stores and in distributors' locations, over 1,200 speed demonstrations, to demonstrate the speed of this kettle as against an ordinary kettle.

Those are some of the things that the manufacturer does. The brief tries to spell out some of the things the dealers do in promoting the sale of the floor polishers during that period when it is gaining public acceptance, when the public is getting an appreciation of the merits of the product and what the product will do for them.

Once a product has gained public acceptance, then the satisfied users tell other people and that is the most powerful type of advertising; but if we brought out today an electric corn-popper that no one knew anything about, we would have, we and the retailers and distributors, would have to do a lot of creative selling in order to get the first 5 or 10% of the public using it, and maybe we would never get that percent of the public using it, because the product might not be good enough for the consumer in relation to the price we were asking the consumer to pay. It is only when a product does enough, it gives the consumer enough benefits in relation to the price that you are asking the consumer to pay, that the product does gain public acceptance.

MR. WICKWIRE: Who pays then for this

creative selling?

MR. JENNINGS: Who pays for creative selling?

MR. WICKWIRE: Yes.

MR. JENNINGS: The public pays for it. We all have to pay to be educated.

MR. WICKWIRE: And perhaps at times the public get tired of keeping on paying for the creative selling for an article?

MR. JENNINGS: Yes, well, I am not suggesting, I am thinking of creative selling largely during the period when it is coming from nothing where no one has it, up to the point where maybe 5 or 10% of the people have it.

MR. WICKWIRE: But then under a system of retail price maintenance, if in force, the public continues to pay for it when it is not necessary.

MR. JENNINGS: Not necessarily, sir. You could very readily have a flexible price structure which gave you a longer discount on products that did not have public acceptance and reduce your discount to distributors and dealers after a product -- that is quite open under price maintenance.

MR. WICKWIRE: Do you do that in your company, for instance?

MR. JENNINGS: We have at all times, we have taken a very active interest in keeping our distributor and dealer discounts at the minimum point which will enable us to interest dealers and distributors to do the sales job we want them

to do.

For instance, it used to be quite common a few years ago for dealers to get 40% on small appliances. Our maximum suggested price now is 35%.

THE CHAIRMAN: That is on sales?

MR. JENNINGS: On sales, yes, that is discount on sales.

MR. WICKWIRE: Your brief indicates that the only variation in suggested prices was made because of tax concessions.

MR. JENNINGS: I am speaking now, in that answer I am speaking of times prior to the resale price maintenance legislation.

MR. WICKWIRE: You might clarify for me, if you will, your suggestion that it damages the value of your product in the eyes of the public, particularly as gifts. I do not follow that one too closely.

MR. JENNINGS: Well, that I put down near the end because we do not consider that that damage is one of the major damages, but we think it is one of the minor things that happens to us.

Our belief is that if you see a G.E. kettle or iron advertised at $8.95 and $8.49 and so forth, that you maybe hesitate to go out and buy one as a wedding present, because the person thinks: "I wonder what cut-rate place he got that?

MR. WICKWIRE: Well, I suppose it is customary for a person buying the gift and sending it, to use your illustration as a wedding present, they

do not put the price tag in of what they paid for it.

MR. JENNINGS: No, but the people who get it get the newspaper and they see what is going on and they might think: "Well, I guess he got a bargain on this some place."

MR. WICKWIRE: They might still like to have the kettle.

MR. JENNINGS: That is right, sure.

THE CHAIRMAN: Isn't it just as useful to the recipient regardless of what was paid for it by the donor?

MR. JENNINGS: That is right as far as the kettle is concerned but it might not create quite the reception in the person's mind.

THE CHAIRMAN: They might think the donor had not spent as much money as he should have done?

MR. JENNINGS: That is right.

MR. WICKWIRE: Might it not also work this way, that I have got $8.00 or $6.00, or whatever it is, and I would like to send a present to you. I would have sent you some cartons of cigarettes but I can send you a G.E. kettle which I could not have sent before, so you get the kettle.

MR. JENNINGS: Yes, I think you might pick up something, but what you would pick up on the bananas you may lose on the oranges, because the people that had $12.50 to spend would

go and spend that for something else.

MR. WICKWIRE: Now, you referred to the Lloyd Jacob Report in which you say you wholeheartedly concur. I assume you have read the report, Mr. Jennings?

MR. JENNINGS: I have read part of it, yes sir. I don't think, if you will read my statement, that I said I concurred wholeheartedly with the Lloyd Jacob one.

MR. WICKWIRE: "We concur wholeheartedly with the conclusion in the Lloyd Jacob Report that a manufacturer should have the right to refuse to supply his products to retailers who use them as loss leaders."

MR. JENNINGS: That is right.

MR. WICKWIRE: I don't think that that is the conclusion of the Lloyd Jacob Report.

MR. JENNINGS: Well, perhaps I have misinterpreted that. At page 307 of the green book, as I call it, on loss-leader selling:

> "Finally, the conclusions reached by the Lloyd Jacob Committee with reference to the control of 'loss-leader' selling are as follows:
>
> > ...a manufacturer may also reasonably refuse to supply a retailer who uses his branded goods as loss-leaders".

MR. WICKWIRE: I have the report here.

MR. JENNINGS: Well, if that is in error,

then I am afraid we will have to blame you folk because you pick up -- you misquote it.

THE CHAIRMAN: I wonder what you mean by "you folk"?

MR. JENNINGS: Sir, this has the name of the Restrictive Trade Practices Commission on it.

THE CHAIRMAN: If you would read the rest of it, it is the Director of Investigation's statement. The Commission had nothing to do with it until we received the book.

THE WICKWIRE: I will read you from the actual report, Mr. Jennings.

MR. JENNINGS: Isn't that an exact quotation from the report?

MR. WICKWIRE: "Conclusions and recommendations".

MR. JENNINGS: Yes, but isn't this --

MR. WICKWIRE: I didn't prepare that, I don't know.

MR. JENNINGS: This is paragraph 168:

> "We recommend that no action should be taken which would deprive an individual producer"

which is defined as to include manufacturers, wholesalers, grocers, importers,

> "of the power to prescribe and to keep resale prices for goods bearing his brand."

MR. WICKWIRE: I think this is the reference to it.

MR. JENNINGS: Well, this is shown here as 112.

MR. WICKWIRE: 112, and paragraph 162:-

"Producers are not in our opinion entitled to use resale price maintenance to obstruct the development of particular methods of trading, to impede distribution by another manufacturer of competitive goods, or to deprive the public of the benefits of improvements in distribution. Public policy requires adequate distribution of goods with provision for such price reductions as are justified by low cost distribution or by a regular policy of distributing surplus profit to the customer."

You would not agree with that part?

MR. JENNINGS: I would rather restrict my comments to the one in the brief at the moment, because I have not got the report in front of me and it is hard to follow a long passage.

MR. WICKWIRE: Now, Mr. Jennings, under a system of resale price maintenance, is not the policing of it an expensive operation?

MR. JENNINGS: Well, I might go back to our experience pre-war. I am speaking only of small appliances. I would say that by a matter of what I would term common sense on the part of the retailers, because of the problems inherent

in small appliances, where there are some in every store and they have a catalogue price and they are worth enough to cause you to cross town to get a bargain, the retailers through their own accord all sold our small appliances, substantially all sold by appliance people, at the suggested prices, and it required no police activity whatsoeven on our part.

In all the years before the war I was in the business, I can only remember one instance of seeing an iron of ours advertised at less than our suggested price.

THE CHAIRMAN: You sometimes see them advertised at a price above your suggested price in the period of short supply.

MR. JENNINGS: I am speaking of before the war, not in the short supply, which is quite possible, in the post-war period that could have been possible.

MR. WICKWIRE: What has happened in the United States under a system of fair trade laws or retail price maintenance, with G.E., do you know?

MR. JENNINGS: Yes, I have some knowledge. I do not profess to be an expert. Our company fair trade small appliances in the United States. You might be interested to know, I don't mind telling you this, that we have instituted something in the order of 150 lawsuits in the last year to try to maintain those prices.

I would further like to say that we in the Small Appliance Department do not favour a Fair Trade Act along the lines of the fair trade legislation in the United States. It is an expensive process.

MR. WICKWIRE: Very expensive?

MR. JENNINGS: Yes. We think it is much better to allow a manufacturer to exercise that measure of control over prices which is necessary to protect his goodwill and to maximize his sales, because let us keep in mind that every manufacturer wants to sell just as much as he possibly can.

MR. WICKWIRE: Of course, that is the only purpose of his being in business, I suppose.

MR. JENNINGS: Well, I would think that would be a purpose toward other purposes.

MR. WICKWIRE: Has not the policing under Fair Trade Laws in the United States been so expensive that it is almost prohibitive for a small manufacturer to undertake?

MR. JENNINGS: I would not want to comment, I do not know about that. I have some knowledge of what our experience has been from hearsay in the General Electric.

MR. WICKWIRE: You suggested that your own company, to your knowledge, has instituted lawsuits in 150 instances?

MR. JENNINGS: Approximately.

MR. WICKWIRE: I have an article taken from the New York Times of August 23rd, 1953 which says

that your company in the States set aside a minimum fund of $500,000.00 to finance its court actions against retailers. Were you aware of that?

MR. JENNINGS: I don't know whether that is right or not.

MR. WICKWIRE: Do you know Mr. A. L. Scaife? He may be your counterpart.

MR. JENNINGS: Yes.

MR. WICKWIRE: In the General Electric Company at Bridgeport?

MR. JENNINGS: He is not a counterpart, but I know him, yes.

MR. WICKWIRE: He is manager of the Sales Planning, Small Appliance Division.

MR. JENNINGS: I think that is his current title, yes.

MR. WICKWIRE: He addressed the hardware and metal and electrical dealers on February 13th, 1954. You were not present, I suppose?

MR. JENNINGS: Yes, I was there.

MR. WICKWIRE: Did you hear him say this:

> "On the Fair Trade Laws in the United States the two main problems being faced are price-cutting and supermarkets selling appliances as loss-leaders."

Do you recall that?

MR. JENNINGS: Not particularly, no.

MR. WICKWIRE: "In Canada without resale price maintenance there are

> exactly the same problems. Legislation is not the answer, but a much better job of advertising and selling."

he said. Now, have you any comment on that, Mr. Jennings?

MR. JENNINGS: I think I should only comment that Mr. Scaife is entitled to his own views.

THE CHAIRMAN: You mean you don't necessarily agree with them?

MR. JENNINGS: I would not agree with that comment.

MR. WICKWIRE: You would not agree with it?

MR. JENNINGS: No.

MR. WICKWIRE: Thank you.

MR. WHITELEY: Mr. Jennings, you used several illustrations of people milking other peoples' cows or taking apples from other peoples' orchards and so on.

MR. JENNINGS: Yes sir.

MR. WHITELEY: Actually is not that competition?

MR. JENNINGS: Not in my opinion, no, not fair competition.

MR. WHITELEY: Isn't it the case that with a great many products one manufacturer brings a product in, finds public acceptance and soon there are many other products of several manufacture who have seized on the same idea and use theirs to the best advantage?

MR. JENNINGS: That is right, I do not

object to that. I am speaking of specifically one manufacturer's products. I am speaking there of retailers cashing in on the efforts of other retailers on one manufacturer's products. I quite accept the right of anyone to go into the floor polisher business or the kettle business or the iron business any time and cash in to the maximum extent that he can on the pioneering work I have done. That is his right and privilege under free enterprise.

MR. WHITELEY: How do you distinguish? It appears to me they are not as separate as you appear to make out.

MR. JENNINGS: I would ask you to think about Danforth Radio Company selling floor polishers at a cut-price below their cost, selling about 800 in three evenings. Now, they did not sell 800 floor polishers, but they had them piled in some cases just inside the door and you came in and you paid your cash and you walked out carrying a polisher with you. They did not sell anything. All they did was act as a depot for people to come, an evening depot for people to come and pick this polisher up at a low price.

If we cannot get this across, then I have failed in my presentation;if we cannot get this across that that would never happen if there were not a large number of other retailers stocking and displaying and promoting the same product in that same marketing area.

THE CHAIRMAN: Isn't it rather, if there had not been a big promotion undertaking by the manufacturers over the years which had created a view in the minds of the public that there was a good article, hadn't the manufacturer done a great deal more than that? Wasn't the work of the manufacturer more responsible for that condition than the fact that a number of other dealers had them in stock?

MR. JENNINGS: I take the position, sir, that in building a product up towards public acceptance where, you might define it, where 5 or 10% of the people have it, in building it up to that stage, the building up of public acceptance should be a combination or co-operative or partnership effort, if you wish, on the part of manufacturers, distributors and dealers.

Now, when a product gets up to the stage where 5 or 10% of the people have it, the best kind of advertising in the world is the comments of satisfied users to their friends and acquaintances.

It might be of some interest to you, we made three market surveys in the past year. One happened to be, I don't mind telling you, one happened to be on the floor polisher. We asked 1,351 people who bought floor polishers, what was the thing that brought their attention to this product and influenced them to buy, and 56% said it was a friend who owned one.

MR. WHITELEY: How do you think that that supports your argument? It seems to me it shifts it to another field altogether.

MR. JENNINGS: The point I am trying to get across is that there exists at all times, on a product that has public acceptance, there exists at all times in every centre of population, a group of people who have made up their minds to buy. They are all sold, they are sold by a newspaper ad or dealer ad or they are sold by a television commercial or sold by a satisfied user telling them: "This is a fine product". They are all sold, they have made up their minds to buy. The dealer who is doing the normal kind of selling contributes to that.

Now, some retailer goes along and advertises a low price, such as the example we illustrated. Those people rush from all over the area to buy the product from that dealer, so he is getting a lot of orders that he had nothing to do with creating.

THE CHAIRMAN: Don't you think it is going a little bit far to say they have made up their minds to buy when they have not gone down to the store and made a purchase? That is, haven't they made up their mind that they would like to have the article, but they may be of the opinion that they cannot afford it at the price.

MR. JENNINGS: Perhaps.

THE CHAIRMAN: Or that they have not enough money on hand now.

MR. JENNINGS: Perhaps it is my choice of words. I think I meant substantially the same thing that you have, that they have come to agree in their mind: "I would like to have that product and I am going to buy it". It will be at Christmas, maybe it will be on Mother's Day or a wedding anniversary, but they have made up their mind to buy it, but they haven't quite decided on the time.

THE CHAIRMAN: There is more than just the time involved. Isn't it the case that a good many people have decided that they would like to have it, but they cannot afford it at the price and if the price was lower they would buy?

MR. JENNINGS: I again re-state what I said before: The lower you can get a price and get a normal amount of exposure to the public and sales promotion, usually the more you sell, but the trouble with loss-leadering that is going on, it is killing our exposure of products to the public and killing the normal amount of promotion. That is the point I am trying to make.

MR. WHITELEY: At the beginning of your presentation you compared the scale of mark-ups of certain of your products with, if not identical lines, with at least parallel products sold in the United States.

MR. JENNINGS: Yes.

MR. WHITELEY: A considerable amount of literature which comes to the attention of the Commission in support of resale price maintenance, contains the argument that the wider spread the practice is, the narrower become the margins. In other words, if you have complete resale price maintenance, then the public may expect to get products at the lowest possible distributive margin. Now, I take it that as far as establishing margins in the United States on the lines you cited, the manufacturer has full latitude.

MR. JENNINGS: That is right.

MR. WHITELEY: So I assume that there must be some other factors other than the resale price maintenance which creates the differences to which you drew attention.

MR. JENNINGS: I am sorry, I am not sure that I got just what you are driving at.

MR. WHITELEY: Well, to put it plainly, the argument is that if under resale price maintenance you should accept the various distributive margins --

MR. JENNINGS: That we should accept?

MR. WHITELEY: The public should.

MR. JENNINGS: You mean that they should get products at the lowest possible cost, is that it?

MR. WHITELEY: Yes.

MR. JENNINGS: I think in the long run my

opinion is they would.

MR. WHITELEY: As I say, the manufacturer in the United States has full latitude to maintain resale prices as far as establishing prices.

MR. JENNINGS: I think in most of the States he has this fair trade legislation, yes.

MR. WHITELEY: And yet the examples you have cited do not show the effect which is argued for in the support of resale price maintenance.

MR. JENNINGS: I cannot follow you, sir. I was just trying to indicate in my comparison that the United States prices that were castigated very frequently in the Houses of Parliament and the Winnipeg Free Press because our prices in Canada are substantially higher than they are for the same products in the United States.

MR. WHITELEY: That is the overall price?

MR. JENNINGS: The price, yes.

MR. WHITELEY: The end price?

MR. JENNINGS: The price to the public, yes, substantially higher. What I wanted to indicate to you, and I am serious about this, that we are proud of the effort and the work that we have done and the mechanism that we have put into our plant to improve small appliances and bring them to the public at prices which in each of those three products run the same as they are in the United States, or in two cases they are substantially the same, and in one case where there is a $10.00 lower price, that this

manufacturer makes more floor polishers than all the manufacturers in Canada combined.

MR. WHITELEY: I presume you know, because of your company being associated as you are with the American company, the relative costs in both sides of the border?

MR. JENNINGS: We have some information, yes, we continually check, and in spite of the fact -- and I am speaking only for small appliances now, because you can grow wheat in Canada with as few man hours, I think, as you can in the United States, or you can raise cows perhaps and so on; but in the example of electrical appliances you find they lend themselves to the application of a great deal of mechanism or labour-saving equipment, and the best we have been able to do, in spite of the fact that our labour rates are a little lower, in respect of the other ~~the~~ best we have been able to do is to come within about 20% higher than American prices.

MR. WHITELEY: Let us come back to the point I am trying to link up with your earlier argument. If that is the case spreads in the States must be higher than they are here.

MR. JENNINGS: Yes, that is true. We are content to work on smaller margins.

MR. WHITELEY: That brings me back to the point I was trying to draw to your attention, that these arguments are advanced in support of resale price maintenance, that by

some means or other resale price maintenance narrows those margins. Now, the illustration you have given is quite the opposite direction, that under resale price maintenance for some reason or other the American margin got wider.

MR. JENNINGS: Well, I don't think you could draw a general conclusion to that effect.

MR. WHITELEY: In other words, there must be other factors that are at work.

MR. JENNINGS: Well, it could be that these are better profit margin items than some others.

MR. WHITELEY: In the United States?

MR. JENNINGS: Yes, but I still perhaps should add that our suggested retail price on the iron is $12.95 now, and of course it is only a suggested price, but it was $12.50 under resale price maintenance in Canada, and at that time it was $11.95 in the United States, very close.

I advance those figures to indicate not high prices, the point you are suggesting, but to indicate we have done an outstanding job in bringing small appliances to the public at low prices, and that our suggested retail prices are low in relation to the price of other goods and services.

MR. WHITELEY: Of course, your argument is related to the general policy. You cannot have a policy in each company.

MR. JENNINGS: I do not follow.

MR. WHITELEY: I mean, it must be taken that

your argument is in advance of general policy in regard to resale price maintenance, not because your company does an outstanding job that there should be some peculiar position under resale price maintenance.

MR. JENNINGS: I put those illustrations in because I had felt that there was quite a lot of information being brought out here by the counsel for the Commission indicating that the suggested prices in Canada were away completely out of line with relation to cost, and I wanted to indicate that on small appliances the Small Appliance Department of C.G.E. have done a good job in bringing appliances to the public at low prices, when they were being sold at our suggested prices; and that those prices today that are being advertised by the loss-leadering dealers are, well, they are just a bargain beyond any imagination that bear no proper relation to what it costs to produce the article.

MR. WHITELEY: Did your company pioneer the lightweight iron?

MR. JENNINGS: Yes sir. I personally introduced the lightweight iron into Canada in 1947. At that time there were not more than 5,000 lightweight irons in use in Canada which we had sold back about 1935. There was no acceptance for the lightweight iron.

I remember in 1947 I went down to the Maritime Provinces and I arrived down on a tour

round the dealers and distributors just after the first shipment had arrived, and each day I would talk myself hoarse trying to convince people that you did not have to have an iron that weighed 5 or 6 pounds, that 3 and 3½ pounds was fine and that such an iron would save time and effort and so on.

MR. WHITELEY: How long was it after you introduced your type of iron that other manufacturers introduced similar irons?

MR. JENNINGS: I wouldn't want to say. It was a gradual process. There are other lightweight irons on the market, but I doubt if I could get that information. I think we did most of the pioneering work on the lightweight automatic iron and enjoyed a high market participation on it.

THE CHAIRMAN: Mr. Jennings, just one question arising from something Mr. Whiteley was asking. You may not have the information. Do you know how the margin between the manufacturer's price and the retail price of small appliances like those three we have been discussing mainly this morning, how they compare in the United States with similar margins in Canada?

MR. JENNINGS: Speaking for General Electric only and I am speaking from memory now, I believe the dealer and distributor discount, that is the discount to the distributor and the distributor discount to the retailer, are approximately the same.

THE CHAIRMAN: Approximately the same?

MR. JENNINGS: Yes.

THE CHAIRMAN: Then if this 20% edge that the American manufacturer has --

MR. JENNINGS: That is 20% on the manufacturing cost. It is not on selling cost.

THE CHAIRMAN: On the manufacturing cost? In respect of those three appliances you would expect a 20% lower retail price in the United States than in Canada, would you not?

MR. JENNINGS: Not necessarily. We might have to work in this country on smaller margins because in the final analysis, if you are selling irons or kettles or floor polishers, you are not simply competing with other manufacturers of those products, you are competing with a thousand and one other items that people can spend the same amount of money on. So that because of a smaller country with fewer people, struggling to produce at low cost, we may have to accept in this country in some cases smaller margins than they do in the United States in order to get the price to the public at a level that they will buy in volume.

THE CHAIRMAN: Sometimes it works the other way, that is, the lower the volume the higher the margin has to be in order to do business on a sufficient profit to stay in business. What I am getting at, if the margins are approximately the same, as you have suggested they are, that refer to your company in the United States and in

Canada, and even if the manufacturing cost is 20% lower in the United States than it is in Canada, the retail price would be something like 20% less in the United States than Canada, if you follow that through.

MR. JENNINGS: If you use percentage mark-ups all the way, yes, for everybody; if you work in percentages, yes.

THE CHAIRMAN: It seems to me the conclusion is that your American company manufacturers are doing a lot better out of it than you are.

MR. JENNINGS: I think I can accept that. I might be under criticism for that.

THE CHAIRMAN: I mean, if your prices are approximately the same as retail prices in the United States and they have a 20% margin in manufacturing costs, and the wholesaler and retailer margins are approximately the same, the manufacturer there must be getting most of the difference. It must be quite a lot.

MR. JENNINGS: Yes, 20% is a general figure. It might vary from that. In other words, our manufacturing cost might be 20% above his manufacturing cost, so when you follow it through your dealer does not get such a terrific amount.

THE CHAIRMAN: It really means this, that what I have been suggesting indicates that there are certain errors in those percentages and figures that would have to be taken into account.

MR. JENNINGS: I might mention one of those products, I am speaking of floor polishers where we are $10.00 lower than the United States, that is not the General Electric and I know nothing about them at all.

THE CHAIRMAN: Do you wish to add anything further before the presentation comes to an end?

MR. JENNINGS: No sir.

THE CHAIRMAN: Any of the others present wish to add anything? That will then conclude the presentation of The General Electric Company, and I wish to express our appreciation to you, Mr. Jennings and the others for your care in the preparation of this material and your fairness in the presentation of it.

MR. JENNINGS: Thank you very much, sir. I will get those figures we spoke of, and I am sorry for that one slip. I was thinking back to what happened some years ago, I think perhaps pre-war, and we have normally thought Alberta is about 60% of B.C., when you drew my attention to it.

---The hearing adjourned until 2.00 p.m.

Delegation from:	CANADIAN ELECTRICAL MANUFACTURERS ASSOCIATION.
Represented by:	F.R. Hume, Q.C., Counsel for the Association.
	B. Napier Simpson, General Manager of the Association.
	W.C. Kennedy, Vice-President and General Sales Manager of Frigidaire Products of Canada Limited.
	C.A. Morrison, Vice-President of Canadian General Electric.
	W.G. Ward, General Manager of the Appliance Division of Canadian General Electric.
	R.M. Jennings, Manager of Crosley Appliance Division.
	Paul E. Flanders. General Manager of Kelvinator Sales Corporation.
	K.P. Winder, Sales Manager of Kelvinator Sales Corporation.
	H.C. Darroch, Vice-President of Moffats Limited.
	G.M. Pynn, Appliance Manager of Northern Electric Company Limited.
	H. Lightbown, Executive Assistant to the President of Addison Industries Limited.
	L.F. Fitzpatrick, President of Sunbeam Corporation of Canada.

---On resuming at 2.00 o'clock p.m.

THE CHAIRMAN: Gentlemen, the hearing will resume.

We are hearing this afternoon representations on behalf of the Canadian Electrical Manufacturers Association. We would like to know, first of all, the names of the members of the delegation.

MR. HUME: Mr. Chairman and members of the Commission, my name is F. R. Hume. I am legal counsel for the Canadian Electrical Manufacturers Association here this afternoon. I would like to introduce the gentlemen who form the delegation.

First, I would like to introduce the gentleman who will read the submission, Mr. B. Napier Simpson, the General Manager of the Association. Now, Mr. Simpson, being General Manager, is not actively connected with either the manufacturing or marketing of electrical products and, therefore, he is supported by representative gentlemen in the industry who are here to answer any questions which you may have which Mr. Simpson cannot answer from his own knowledge.

The first is Mr. W. C. Kennedy. Mr. Kennedy is Vice-President and General Sales Manager of Frigidaire Products of Canada, Limited.

I do not mean to imply that all these gentlemen will take part in the questioning but they are here in case they can be of assistance.

The next gentleman I wish to introduce is Mr. C. A. Morrison, Vice-President of Canadian

General Electric. Associated with him is Mr. W. G ward, General Manager of the Appliance Division.

Mr. R. M. Jennings, from whom you heard this morning, Manager of Crosley Appliance Division.

Mr. Paul E. Flanders, General Manager of Kelvinator Sales Corporation. With Mr. Flanders is Mr. K. P. Winder, Sales Manager of Kelvinator Sales Corporation.

Then, the next gentleman I should like to introduce is Mr. H. C. Darroch, Vice-President of Moffats Limited.

Then, Mr. G. M. Pynn, Appliance Manager of Northern Electric Company Limited.

Mr. H. Lightbown, Executive Assistant to the President of Addison Industries Limited.

Lastly, Mr. L. F. Fitzpatrick, President of Sunbeam Corporation of Canada.

Mr. Chairman, with the permission of the Commission, it has been suggested that Mr. Simpson read the submission through, subject to any interruptions you gentlemen may have. When he is completed his reading he will try to answer any questions which may be asked. If he is not able to do so he will know which of these gentlemen is best qualified - and there may be more than one - to assist the Commission.

I will call on Mr. Simpson to read the submission.

MR. SIMPSON: Gentlemen:

"The Canadian Electrical Manufacturers

Association welcomes the opportunity of submitting its views to your Commission on the prevalence and effect of Loss-Leader selling. The Canadian Electrical Manufacturers Association is composed of one hundred and forty-seven member companies, representing approximately 80% of the dollar turnover in the Industry; directly employing about seventy-six thousand Canadians in its factories across Canada, of which number approximately eleven thousand are directly employed in the manufacture of electric appliances.

"As stated in your letter directed to the Association under date of March 19th, 1954 - 'The enquiry is intended to include all aspects of the problem of Loss-Leaders. without limiting in any way its wide general scope, the Commission is anxious to obtain accurate factual data etc.'

"The purpose of this brief then is to show that household appliances are being sold as Loss-Leaders, and that this, and other practices resulting from the passing of the legislation known as Section 34 of the Combines Investigation Act, are inimical to the interests of the public, the retail dealers, and the manufacturers. The present legislation as applied to the Household Appliance Industry restricts the operation of, and is contrary to, the

conception of 'free enterprise' in this country, thus jeopardizing the future of hundreds of small business men as well as manufacturers.

"It may be definitely stated that had this legislation been in effect twenty years ago the Canadian consumer would not now be enjoying the gracious living made possible by modern electrical appliances as a result of the creative efforts and large capital expenditures by the manufacturers. The situation which has been created by this legislation precludes obtaining the dealer support necessary for the sales promotion to gain public acceptance of new products; and therefore does not warrant further capital expenditures by manufacturers for their development.

"Most Canadian electrical manufacturers have been in the appliance business for twenty years and longer and are justly proud of the confidence which their name inspires in the minds of the buying public. The manufacturers have built up distributor and dealer organizations in order to insure that their products will receive wide acceptance and proper service. The prohibition of resale price maintenance by the manufacturer is seriously damaging the manufacturers' prestige and reputation with its

dealers who feel sure that those who are engaging in Loss-Leader selling are getting a better price from the manufacturer and a great many dealers are refusing to continue handling the products.

Our first submission on behalf of the Association is to point out that the merchandising of electrical household appliances presents entirely different problems than is the case with food, drugs, tobacco, etc.; and therefore are subject to greater impact from Loss-Leader selling. The reason for this is that while the first mentioned are consumable 'repetitive purchase' items, no such conditions apply to the latter. Electrical Appliances are purchased for long service (5 to 15 years), and since they have catalogue numbers the consumer may expect standardization of parts which is not true of other industries. As a result it is submitted that Loss-Leader selling in electrical appliances creates special problems not found to be the case in other products sometimes used for this type of merchandising.

"The Association respectfully submits that it is not possible to accurately define Loss-Leaders so as to embrace an interpretation that is uniformly understood among manufacturers, distributors

and consumers. For the purposes of this submission, therefore, the following definition of a Loss-Leader is being adopted.

'In our opinion a Loss-Leader is a product which the retailer sells and/or advertises below his invoice price, plus the cost of doing business, usually as a means of attracting customers.

"As typical examples we might refer to the following:

	Manufacturer's Price to Dealer	Advertised and sold at	Suggested List Price
Easy Washer	71.75	89.00	(Reg. 135.00)
Addison "T.V."	225.00	199.95	(Reg. 369.00)"

I might say, we could have listed any number of examples here but we only put two. The first sold at a slight profit and the other at less than the price the dealer paid for it, at a loss of $26.00, the one which sold at $199.00. I have a letter from the manufacturer stating it was purchased at $225.00. I have an ad offering it at $199.00. This is an Addison television set which was sold for $225.00 to that particular dealer and resold by him at $199.00, for a loss of $26.00.

THE CHAIRMAN: The actual instrument was traced straight through?

MR. SIMPSON: That is correct.

THE CHAIRMAN: We have had evidence that

in some instances special deals are made with certain dealers whereby they pay lower than the regular prices.

MR. SIMPSON: This could be privately proven to the Commission if you desire.

THE CHAIRMAN: I just wanted to make sure of the meaning of the statement.

MR. SIMPSON: "The Dominion Bureau of Statistics sample survey of retail stores, as published in the Financial Post of March 27th, 1954, gives the national average cost of operating household appliance and radio stores in 1952 as 18.59% on selling price without providing for proprietors' salaries."

I might comment here that Mr. Jennings, in his brief this morning, said the Dominion Bureau of Statistics were going to keep statistics on incorporated stores. From other statistics these figures run about 10% over unincorporated stores, so they would be around 28%.

THE CHAIRMAN: The incorporated body has not an owner's salary to pay.

MR. SIMPSON: That is right.

THE CHAIRMAN: All the employees are on the payroll of the company, whereas the privately owned store may not charge a salary.

MR. SIMPSON: That is right.

"Many of the appliances both large and

small being regularly advertised in metropolitan area papers can, therefore, be regarded as Loss-Leaders.

"The services performed by a dealer which require adequate margin are:

1. Maintains a varied display of models.
2. Maintains an adequate inventory of various models to make prompt delivery.
3. Has a trained sales staff to supply information on the product to customers, enabling them to make an intelligent choise of the model best suited to their requirements.
4. Has a location in a good traffic centre with an attractive store and windows properly displaying products.
5. Provides facilities to uncrate, test, clean and set up products and to deliver them to the customer's home, install them, and instruct the customer in their basic operation.
6. Has a home economist or other staff personnel to call at the purchaser's home and educate the housewife in the proper use of the product to get the most value, enjoyment and the best results from owning it.
7. Accepts the responsibility to promptly adjust the product to ensure its continued and satisfactory operation in

the customer's home. This is an important responsibility of the dealer who sold it and represents a substantial expense in equipment, supplies, space, trucks, parts inventory and trained service men.

8. Does advertising to educate the public as to the benefits, features and prices of the products, and savings resulting from their use.

9. Undertakes sales promotion activities of various types, for example, cooking demonstrations and distribution of literature.

"It is obvious that some of the larger dealers in the metropolitan areas can operate at a lower expense ratio than the average dealer but they can only do this by taking advantage of the public acceptance of the manufacturers' brand name and at the expense of the average dealer. Many independent business men who are being forced out of business consider this practice undesirable and it is a threat to the future of the manufacturer.

"Herewith are figures obtained from Dun and Bradstreet which show dealer failures through financial embarrassment - they do not include voluntary retirement from business."

Your appliance dealers who say there is no more money in this business and simply back out. These are actual figures brought to the attention of Dun and Bradstreet.

"The increase since the passage of this legislation should be noted:

Year	Failures	Liability
1950	11	$90,000.00
1951	22	387,000.00
1952	18	538,000.00
1953	43	2,220,000.00"

I might say, the liability has increased very greatly.

THE CHAIRMAN: That is confined to the electrical appliance dealers?

MR. SIMPSON: That is correct.

"The public is losing confidence in the manufacturer's brand name. The channels of distribution and promotion which built up this industry are being destroyed. The greatest assets of a manufacturer of consumer goods are public acceptance and dealer connections. Canadian manufacturers spend annually millions of dollars in advertising, selling, sales training, and promotion to establish and maintain these assets. This present market condition,

encouraged by legislation is wiping out years of this effort and investment.

"The Association submits that a product, to be effective as a Loss-Leader, must be standardized, having wide public acceptance and a value which has become established in the minds of the public. The Electrical Appliance Industry, because appliances satisfy all of the requirements above, has been hit harder by Loss-Leader selling and other unhealthy price cutting practices than any other industry since the amendments to the Combines Investigation Act which prohibit resale price maintenance and which became effective on January 1st, 1952. As an illustration, a comparative study of newspaper advertising of electrical appliances . . ."

The words "by dealers' should be inserted there.

". . . by dealers for the first quarters of 1952-3-4, respectively show the following lineage:

	Jan. 1st -	March 1st
Elec. Appliances	Star	Telegram
1954	283,958	105,303
1953	243,089	149,743
1952	110,526	36,667"

You will notice in 1954 the increase of the total lineage in the Toronto Star and Telegram over what had previously prevailed which was due to the amount of cut-price advertising which was done. If you took furniture, which is not included, there was practically no change in the lineage subsequent to the passage of the legislation.

THE CHAIRMAN: This is total lineage of all advertising of appliances?

MR. SIMPSON: Yes.

THE CHAIRMAN: Including what you call loss-leader or cut-price?

MR. SIMPSON: At the dealer level.

THE CHAIRMAN: It includes what you call cut-price or loss-leader advertising and dealer advertising?

MR. SIMPSON: Dealer advertising, but I think you will find very little of that.

THE CHAIRMAN: I do not know, I am just asking.

MR. SIMPSON: We hope to prove that.

"As an illustrative exhibit we give the Toronto Daily Star of May 18th and May 25th showing three double page spreads which are typical of this activity."

The Commission was furnished with those two papers. I will not bother going through that again.

"The Household Appliance Industry has reached its present state of efficiency and service through the development of new and improved products.

"The retailing organization across Canada has had an integral and highly important part in this development, which is essential to success through its past willingness to invest large sums in the promotion and sale of new products, such as automatic clothes dryers, automatic dishwashers, 'dispose-alls' etc. (It should also be noted here that such products are not used for price cutting since they have not yet gained major public acceptance.)

"New products are not now being promoted, since the necessary support of the average retailer has been discouraged because of the predatory price cutting resulting from this legislation. Lacking sufficient margin of profit he has reduced expenses at all levels.

"It must be emphasized here that the manufacturer cannot perform the 'on-the-spot' promotion and selling requiring direct contact with the consumer - so necessary to the success of new product development and protection of his investment.

"The introduction of new and/or improved products is essential to continuity

and to the maintenance of employment in the industry. That this is not now being done is evidenced by the complete lack of promotion and advertising on a national basis by the manufacturer.

"Dealers rightfully wish to give good dependable value to their customers, particularly if they expect repeat business, and therefore wish to sell products at prices equal to the prices at which their competitors sell the same products. Comparison of prices on appliances is easy because catalogued numbered products are identical. As the value of the purchase is relatively high, people shop and compare prices and watch the newspapers when they are buying. This does not apply to anything like the same extent in the food, drug or hardware business. The appliance industry is, therefore, more susceptible to the price cutting 'loss leaders' advertising and selling activities and has been hit harder by this practice than other industries.

"Retailers advertising appliances as Loss-Leaders or at very low prices in metropolitan centres such as Toronto damage the business and reputation of retailers in cities and towns located hundreds of miles away and, in fact, even in

other provinces because of the wide circulation of Toronto newspapers. This is indicated in the following table which contains figures obtained from the Audit Bureau of Circulation for the 12 month period ending September 30th, 1953 showing daily community circulation.

	Star	Telegram
Brantford	1,762	1,069
London	2,349	341
Hamilton	4,511	4,303
Orillia	2,211	1,557
Barrie	2,258	1.433
Belleville	2,391	1,096
Kingston	2,400	967
Peterborough	2,019	1,000
Oshawa	6,273	1,739
Guelph	1,962	1,166
Ontario (outside of Toronto)	154,065	70,398"

I have listed several towns here within 150 or more miles of Toronto. You will notice the size of the circulation of both those newspapers. I have also given the daily circulation for the Province of Ontario.

"It is conservatively estimated that Toronto papers cover over 38% of the total Canadian market. Similar damage is done

by Loss-Leader advertising in other metropolitan areas such as Montreal and Vancouver.

"The continued existence of the manufacturers of electrical appliances in Canada is based upon their being able to provide their products for Canadian users at the lowest possible prices and they welcome healthy price competition at the manufacturers' level and at the retail level.

"It is submitted that the Electrical Appliance Industry is very competitive at the manufacturers' level and this competition assures that the consumers will receive good value. In addition to the competition of Canadian manufacturers, most electrical appliances manufactured in Canada are subject also to the competition of similar appliances imported in quantity from the United States of America. This is amply proved by the following Dominion Bureau of Statistics figures on Refrigerators and Range imports:

Cooking Stoves, Electric valued at more than $25.00 each (Item 5716)		Refrigerators, electric, domestic or store, completely equipped or not, n.o.p. (Item 9078)- and Freezers
NUMBER	YEAR	NUMBER
2,315	1950	11,088
5,316	1951	109,624
6,332	1952	202,506
14,328	1953	220,051

You will notice the large increase in those over the period of years.

"The electric range manufacturing industry was greatly assisted in the past by exporting a considerable part of its production, particularly to the Commonwealth. Exports, however, due to import and currency restrictions throughout the Commonwealth have now shrunk to practically nil. There are 31 Canadian manufacturers engaged in the manufacture of electric ranges and 16 manufacturers who make rangettes. The greatest number of electric ranges ever produced in Canada could have been produced by the present productive facilities of the three largest Canadian companies. This would also be true of refrigerators where three of our companies could now equal the largest number of refrigerators ever produced in Canada. Competition with imported refrigerators from the United States has now reached a very high level. In 1952, there were 202,506 refrigerators imported while the number produced in Canada was only 236,866. In 1953 corresponding figures were respectively - 220,051 and 282,153. Imported refrigerators thus accounted for approximately 45% of total sales.

As has been stated owing to severe competition, not only amongst Canadian manufacturers between themselves, but also competition with U.S.A. manufacturers, in our opinion there is no chance of the manufacturers' price to his distributor or dealer going too high but alternatively must be kept at the lowest possible level and lower than the landed cost of equivalent U.S. products. Added to the competition amongst manufacturers, we now have rampant price competition between the retailers spurred on by a few large dealers in metropolitan areas. We believe that this situation calls for some control and that the manufacturer should not only be allowed to protect his own business and product, but also the business of his distributor and dealer in some measure by insisting that his product be sold at the retail level at a price which will allow the retailer a reasonable margin of profit, after performing the services which are rightly expected of him.

"Dealers in an effort to obtain lines on which a price can be maintained, and the public's confidence in their values maintained, are importing lines of appliances from the United States on an extensive basis. This is encouraging imports,

discouraging Canadian manufacturers and threatening their financial stability, creating unemployment in Canada and undermining the Canadian household appliance manufacturing industry. Investment and expansion in these vital industries are thereby discouraged in a country where we need more industrial and manufacturing development.

"Appliances are not sold through exclusive dealers and the dealers' policies are not subject to extensive control by the appliance manufacturers. Without the right to exercise some control over prices, the manufacturer in effect has no control whatever of dealers; and today has not even the basic right to sell or not to sell his products to any dealer he sees fit. This is the critical point. The manufacturer should have the right to select dealers who will sell and service his product, and without this selection he has no effective basis for carrying out his policies, as has been amply demonstrated during the last two years.

"It is further pointed out that the present legislation removes from a manufacturer his common law right to decide the persons with whom he does business and completely ties the manufacturer's hands if a franchise holder is adopting Loss-Leader

tactics. _If_ it is felt that a franchised dealer requires some proprietory right in the franchise from a manufacturer, it must be conceded that the manufacturer has a proprietory right in protecting its name and reputation and should have the privilege of refusing to do business with a dealer who is causing damage in the area by Loss-Leader selling and/or price cutting. The legislation in effect is assisting in the creation of monopolies, since the business is falling into the hands of a few large dealers, something it was designed NOT to do.

"It is further submitted that one of the effects of Loss-Leader selling and other unfair price cutting practices penalize a manufacturer for having done a good job. As pointed out above, a product must be well known and have been sold in large volume in order to be useful as a Loss-Leader. A manufacturer achieves this position by building products with fine appearance and outstanding performance to sell at a proper price. After he is successful in accomplishing this, he then becomes a target for predatory price cutting and is now unable to protect his brand names and his manufacturer's reputation, prestige and position with his

other retailers in that area. After this has happened the dealer is then free to refuse to handle that particular manufacturer's products, thus giving the dealer who engages in Loss-Leader selling freedom of choice in selecting the manufacturer with whom he will deal, but preventing the manufacturer from protecting himself against this practice.

"Obviously this legislation at its inception was not aimed particularly at household appliances but was intended to prevent combines from operating contrary to public interests or to unduly restrict trade. Consumable products like certain foods, drugs, hardware, paper, etc., while manufactured or distributed by different firms are so alike in quality that they tend towards similar price levels. They carry no continuing responsibility after sale as appliances do for the full term of their life. Each household appliance manufacturer strives to make his product different and better than his competition and usually introduces new models annually in order to increase sales. Appliances are freely competitive in appearance, features, and price and all manufacturers endeavour to keep their suggested retail price as low as possible consistent with an

adequate retail margin to provide the services and promotion required. At no time have household appliance manufacturers agreed on retail prices nor was it ever possible for the manufacturer to wholly maintain the suggested retail price on his own product. There is no combine activity requiring regulation and the present legislation is merely making it impossible for many dealers, who in the past have built up the industry and rendered great service to the public in so doing, to remain in business. Manufacturers in effect have a vested interest in these dealers because of the years of promotion through them. This is being lost.

"The manufacturer is keenly interested in the welfare of the retailers and believes that a healthy retail organization across Canada is essential to the continued operation of this induatry. Loss-Leader selling and other forms of price cutting prejudicially affect the retailers by damaging their public relations. A retailer's position with his customers and potential customers is seriously prejudiced when a competitor sells exactly the same product as a Loss-Leader item at a price which the dealer is unable to charge and continue to carry on his business. This may

be further illustrated from the following comment from a retailer on page 179 of the recent booklet on Loss-Leader selling published by the Restrictive Trade Practices Commission."

That is the green booklet prepared by Mr.MacDonald, I might say, if there is any doubt.

"'Let me illustrate. I was contemplating the placing of a large order for -- refrigerators. In tonight's paper I see where the price of (company name) refrigerators has been slashed to the point where it is no longer profitable to sell them, by one dealer. Consequently there will be no order from me for refrigerators for a considerable time, and no doubt other dealers' reactions will be the same. Now bear in mind that (company name) have spent years developing a quality refrigerator, have spent millions in advertising it and promoting it and yet here we have one dealer (with probably a total investment in about two (company name) refrigerators) at his whim, completely wiping out the market in an entire area for a company with investments running into the millions. Ridiculous! - don't you agree'.

"Persons contemplating the purchase of

an electric appliance usually conduct a careful study and are influenced by newspaper and magazine advertisements, television commercials and radio advertising. They visit dealers' stores and decide on the particular appliance they wish to buy. There is, therefore, always the group of people in every community who have decided to buy a particular electrical appliance but have not yet decided on the time of the purchase. One dealer who engages in Loss-Leader selling is able to persuade a large majority of these people that the right time to purchase has now arrived!

"The remaining dealers lose part of their sales volume and this increases their sales expenses when they lose sales from customers on whom they have expended time and money as part of their sales promotion campaign.

"It is submitted that retailers are jeopardized since the profit of the majority of retailers is reduced to a figure that is below a necessary return on their investment and that this has caused dealers to go into bankruptcy and withdraw from the appliance business.

"The effect then of the present R.P.M. legislation has been to create a critical credit situation in the trade, not only

are manufacturers' risks greatly increased and credit losses greatly increased, but the reluctance of the banks and finance companies to give credit to appliance dealers, is adversely affecting the industry. Loss of dealers and the lessening of widespread dealer promotional activities directly affects manufacturers' sales and revenue.

"Household appliances have contributed effectively to our present high standard of living, the health of the people, and freedom from unnecessary drudgery in the home. In order for appliances to incorporate so many convenient features and provide satisfactory performance through high quality, the manufacturers have:

(a) Done constant research, engineering and development work to improve the design and features involving the expenditure of millions of dollars for this purpose and also for the tooling required to manufacture improved designs.

(b) Invested extensively in plants and equipment to manufacture appliances.

(c) Invested millions of dollars in distribution facilities, that is, dealers, salesmen, sales training, advertising and warehousing. The most important link in this distribution chain is the dealer.

"Without many of these dealers educating the public to the advantages of appliances no sales are made, and all the other distribution features and expenses are nullified and the investment in research, development, engineering, plants and equipment is wasted.

"None of the Loss-Leader dealers in the metropolitan areas do any educational sales work whatsoever. They only cut prices thereby putting other dealers out of business or forcing them to discontinue educational sales work. This will result in destroying the industry if allowed to continue. It has already partially done so and has already discouraged investment in, and the extension of credit, to the industry.

"A high percentage of saturation is being reached in some appliance lines, such as, refrigerators and washers, and most sales involve a trade-in. The cut prices established by advertising do not allow a dealer any margin for handling trade-ins except at a loss. Consequently sales are restricted or the dealer loses money.

"An examination of recent advertising will show that these advertisements merely accent 'price' - as opposed to the creative and educational advertising done by manufacturers and legitimate dealers."

I have here some samples of what is known as creative and educational advertising which are the means of selling such products to the public; as opposed to those in the newspapers from these predatory price-cutters, which merely accent price. I have many of those and I will leave them with the secretary.

"At no time in the past was it possible for the manufacturer to wholly maintain resale prices. It was possible to suggest resale prices, and most dealers sold within a reasonable range of them, but there were always special deals and discounts being extended to the public. The manufacturers' suggested retail prices provided only the margin necessary for the dealers' operating expenses and reasonable profit return, and made it possible to build an almost new industry with employment for many people, and with many independent business men owning and operating their own businesses. This trend is being reversed by the prices at which the ordinary dealer must sell in order to compete with price-cutting firms.

"You can be sure that no manufacturer wants, nor can he afford because of the extreme competition from other manufacturers to have, any greater spread between net selling price and the retail price, than

is essential to sell his products and maintain them in good repair.

"As stated appliances are not subject to repetitive purchase like drugs or groceries which carry no continuing responsibility. Appliances require far more independent selling and promotion, explantion as to their use, and provision for servicing. To understand the household appliance business (particularly major appliances) it must be recognized that services and product are both an integral, and should be an inseparable, part of a household appliance sale. The purchase price provides for both. We do not know of any other products with moving parts, operating mechanically or electrically, sold to households, and requiring proper installation and instruction on their use that carry warranties comparable to the average of one year on most appliances, three years on electric range heating elements, and five years on refrigerator systems. The latter must operate satisfactorily for an average of about eight hours per day continuously for five years, and are expected to continue performing for ten or fifteen additional years. Manufacturers of motor cars extend no such warranties nor are their products expected to provide comparable

uninterrupted expense-free performance to owners. These warranties were found essential to originally establish purchaser confidence in appliances so they could be sold. The present popularity and general acceptance of household appliances is, to a great extent, due to their satisfactory performance, and the services extended to keep them operating. It will be obvious that as appliances become more automatic in operation that the need for such services will be increased. The trade must have sufficient gross margin in their prices to maintain such services. The manufacturers of appliances incur a tremendous contingent liability in extending such warranties, and should be allowed to safeguard their interests by determining their distribution channels and methods.

"There is a further aspect of the existing situation to which attention should be drawn. Many independent dealers are unable to finance their own term paper and usually finance through an established finance company paying relatively high discount rates. Sometimes it is necessary to meet competition by charging the customer a low finance rate, and then discount with the finance company at a higher rate, thereby incurring a loss.

"Many firms cutting prices extensively

do their own financing, making a profit thereon in addition to the margin on volume turnover. They are really selling terms instead of goods and services, and the extra profit on terms enables them to undersell the average dealer. A recent survey of the Montreal area showed that 40% of the dealers representing 60% of the volume turnover financed their own paper.

"We doubt if legislation can correct this Loss-Leader condition. Free enterprise is what the name implies, a system where business regulates itself because of the laws of supply and demand and the effects of free competition in regulating price. We doubt if this can ever be successfully done by legislation. Experience has indicated that legislation interferes with the free enterprise system, resulting in injustices requiring more and more legislation and controls, which is already indicated in the appliance industry as a result of this R.P.M. legislation. The proper move is to revise the legislation since it cannot possibly regulate all the conditions and mobility inherent in the free competitive system. Such factors as supply, capital, general economic conditions, future developments, credit, designs, introduction of new models, selling costs, human nature

and many other risks are not stable but are constantly fluid and require instant adjustments so that even time is a most important factor. To prevent proper and free functioning of one part of the competitive system, without controlling all of it, is sure to create dislocation and hardships and, in fact, tends to destroy the system on which our economy and democracy is based.

"The people in this country have received tremendous benefits through the business enterprise of the appliance industry and at no time that we know of was the industry ever accused of practising monopolistic practices or the restriction of trade. By its very nature the competitive operation of the appliance industry is the antithesis of such, and yet this industry has been extensively damaged, more than any other industry, by this legislation which prevents the proper and free functioning of the private enterprise system which this Government is publicly pledged to support. We maintain that this legislation as applied to household appliances is contrary to the interests of the people of Canada and the thousands of dealers and manufacturers engaged therein, and the Canadians who have their capital invested in these firms. It is submitted that this industry

has amply demonstrated in the past its ability to bring many benefits to the housewives of Canada, to raise the standard of living in this country and will continue so to do.

"We, therefore, recommend that the Household Appliance Industry be allowed to operate competitively under the laws of supply and demand to the benefit of the people of Canada; and that the existing legislation be modified to restore to the manufacturer the right to do business with whom he will."

Thank you.

MR. HUME: I do not think there is anything anybody wants to add to that submission but, as I indicated earlier, I will attempt to indicate to the reporter who is answering questions. These gentlemen are responsible people in their business and their purpose in being here is to give responsible answers.

THE CHAIRMAN: Like yourselves, we want the best answers and the most accurate ones.

MR. HUME: You did ask one question about a particular model of Addison T.V. I think Mr. Lightbown might clear that up. I think the example is on page 3. I think that is the only thing left in the air. It is a question of whether or not that T.V. set is the actual set.

THE CHAIRMAN: The reason I was asking that was to make certain that the statement in the brief was that that was the actual set and you were referring to the regular price of that set. It could be pursued further and explained.

MR. LIGHTBOWN: The statement in the ad as to the former price?

MR. HUME: Was that sold at $199.00, the actual set he paid $225.00 for?

MR. LIGHTBOWN: Yes.

THE CHAIRMAN: Y u have traced that set through.

Mr. Wickwire, have you some questions?

MR. WICKWIRE: I have a few, Mr. Chairman, yes.

I think perhaps Mr. Simpson could probably answer the first one, it is a statistical one arising out of this first paragraph. Of the 147 member companies in the organization, Mr. Simpson, how many are affected by loss-leadering practices, roughly?

MR. SIMPSON: I would say that everyone who is in the appliance business, Mr. Wickwire, would be affected by it.

MR. WICKWIRE: Could you give me the number?

MR. SIMPSON: You must get the picture: Some of these companies only make appliances, others are companies who have diversified product lines and a portion of their --

MR. WICKWIRE: I do not want you to give

me the exact number, Mr. Simpson, just approximately?

MR. SIMPSON: I would say approximately 35. May I confirm that? Yes, approximately 35 to 40.

MR. WICKWIRE: At the foot of page 1 the following appears:

> "It may be definitely stated that had this legislation been in effect twenty years ago the Canadian consumer would not now be enjoying the gracious living made possible by modern electrical appliances as a result of the creative efforts and large capital expenditures by the manufacturers."

My question is: Would there not have been imports, would not, for instance, the development of the appliance industry in the United States have spread over into Canada if the Canadian manufacturers had not gone into it?

MR. SIMPSON: That is a question, Mr. Wickwire, I could not answer specifically. I would say this: We are not concerned with the question of imports, other than they ruin our business here. We are concerned with the investment and employment in Canada and the well-being of these companies to provide that employment.

MR. WICKWIRE: I can appreciate that. I am thinking on behalf of the consumers: Do not you think they would have found ways and means

of getting them, even if Canadian manufacturers had not gone into that?

MR. SIMPSON: It is presumed they would. If we had continued to be hewers of wood and drawers of water and did not manufacture anything in this country.

MR. WICKWIRE: You made the statement here that the Canadian people would not have had these things. I am suggesting perhaps they would have had them?

MR. SIMPSON: Mr.Wickwire, I would like to answer that

MR. WICKWIRE: It might have been to the detriment of the country as a whole, as you say, but the consumers would still have had them.

MR. SIMPSON: That is possible. But, I would like to call your attention to one thing: Mr. Jennings went into great detail in his brief this morning to show you what was involved in expenditures and the creation of new employment, the necessity of having dealer organization throughout the country to sell the product and put it across. That is exactly the expense involved and necessary to put a new product on the market. If the manufacturers had not been able to cash in on that new product they would not have put the new product on the market.

MR. WICKWIRE: That is natural, the manufacturer goes to the expense - and more power to him for doing it - to create something new; but he

expects to get it back, otherwise he would not make it in the first place.

MR. SIMPSON: That position has been jeopardized by a few predatory price-cutters in the country. It means in the future there will be a longer time between new products.

MR. WICKWIRE: That is why we are here. The Appliance Branch of the Canadian General Electric went to great length to show what effect it was having on their industry. We would like to see figures of other manufacturers. I do not necessarily mean they should be given now but they could be forwarded to the Commission in the same way as the Small Appliance Division of C.G.E. has done.

MR. SIMPSON: You would like certain figures as to development of products and the expenses involved in developing those products over the years?

MR. WICKWIRE: I suggest the figures would show the sales for the four-year period covered by C.G E., 1950, 1951, 1952 and 1953, and what is occurring in 1954. I think the Commission would like that.

MR. SIMPSON: I think those could be provided.

MR. HUME: May Mr. Lightbown answer part of your question?

MR. WICKWIRE: Certainly.

MR. LIGHTBOWN: Mr. Chairman, I think we

should go back to the early days of refrigeration, just to get an idea of what it took in advertising and man-power to get refrigerators accepted. In those days we used to go around - it was outside work, all of it - and see the man, not the woman. We would take a compressor with us.

MR. WHITELEY: Who are you referring to?

MR. LIGHTBOWN: The sales force of the manufacturer. We had to teach the dealer, then go out with his salesman. At that time we were highly trained and were able to answer all the questions on the compressor. We had to do that to give the men confidence that the darn thing would not blow up - as some of them did.

THE CHAIRMAN: You do not mean that was misplaced confidence?

MR. LIGHTBOWN: That situation gave birth to the guarantee on refrigerators. When a man said he had seen the fire department drag one out of somebody's house and that he had seen the results of sulphuric acid, we said, "What do you care, we guarantee it for five years."

In regard to imports coming into Canada. Absolutely no, they did not have the sales force to do this. It cost a lot of money to put this thing over. In those days a salesman got as high as 15% for selling a refrigerator.

MR. WHITELEY: Which salesman?

MR. LIGHTBOWN: The dealer's salesman.

MR. WHITELEY: Distinguish between which

salesman.

MR. LIGHTBOWN: They became good salesmen because of the training we gave them.

The same thing is happening again on automatic dryers and automatic washers. We are going out, our men are, first of all --

MR. WHITELEY: You are speaking now of the manufacturer?

MR. LIGHTBOWN: Yes, the manufacturer goes to the dealer and talks and finally convinces him he ought to go into this business. After a lot of sales talk and advertising, and these additional helps, when he has actually sold him he has to do the actual job over again with his salesmen. It takes weeks to get them going. Today there are scores and scores of dealers who would love to go into the automatic washer and dryer business but they will not because they are afraid the day after some price-cutter will sell at a price at which they cannot afford to sell.

MR. WICKWIRE: But, Mr, Lightbown, would not you agree with the statement made by Mr. Jennings this morning, that the greatest form of advertising the manufacturer can have is that a customer or purchaser of the manufacturer's article is so happy about it he tells his or her friend?

MR. LIGHTBOWN: That is another step further. We have not only to sell the salesmen

but the salesmen, after they make the sale, have to sell the purchaser.

MR. WICKWIRE: At that stage price becomes a consideration, does it not, with the prospective purchaser?

MR. LIGHTBOWN: I am sorry?

MR. WICKWIRE: At that stage price becomes a consideration with the purchaser, the price of the article?

MR. LIGHTBOWN: The price of the article?

MR. WICKWIRE: At that stage. I am Mrs. Brown, I have bought one of your refrigerators --

MR. LIGHTBOWN: The very fact you have bought it shows you were convinced by our talk, you were going to get value for your money.

MR. WICKWIRE: That might be. I will concede that. But, I say to Mrs. Smith and Mrs. Jones, "Buy one of these machines, there is nothing like them, they are wonderful." "How much did you pay for it?" I tell them it was $200.00. "My," says Mrs. Smith, "I can't afford it but I would love to have one if they were $150.00." Do you object to Mrs. Smith buying that machine at $150.00?

MR. LIGHTBOWN: No. I do not think the question is a question at all. You say, "I would like to have one for $150.00." You just have to wait until you get $200.00.

MR. WICKWIRE: In the meantime I cannot have one?

MR. LIGHTBOWN: That is what time payments are for, you do not have to have that $150.00.

MR. WICKWIRE: Do you use the argument about the creative selling and the amount that has gone into create consumer demand for that article, once it has been created and established do you say that the price has to be kept up all the time?

MR. LIGHTBOWN: I did not say that.

MR. WICKWIRE: Do you say that?

MR. LIGHTBOWN: I was simply explaining why. My first point was why these refrigerators did not come over the border and we had nothing. That was your first question. I say we would not be here.

MR. WICKWIRE: There is a very broad statement at the foot of page 1 to the effect that if the manufacturers had not developed these things the Canadian people, customers, public would not have had them.

MR. LIGHTBOWN: Well, sir, would you say this: If we shut up right now about these wonderful dryers we have got and did not do any advertising, do you think we would sell any? It has to be done.

THE CHAIRMAN: I do not think that is the suggestion contained in the question.

MR. WICKWIRE: I did not suggest that.

MR. HUME: Mr. Kennedy might be able to help you.

MR. KENNEDY: Mr. Counsel, as I understand your question basically was: If this statement is correct and had we not entered into this business some twenty years ago the Canadian public would still be buying similar products from the United States --

MR. WICKWIRE: Or from other sources.

MR. KENNEDY: Or European sources?

MR. WICKWIRE: Yes.

MR. KENNEDY: I would attempt to answer your question with two illustrations, if I may. It is a well-known fact that the frozen food business, as an industry, has developed tremendously over the last twenty-five or thirty years. Dr. Clarence Birdseye developed the principle some thirty-one years ago. It was in effect in the United States of America for ten long years on a commercial basis before it ever entered the Dominion of Canada. In the depression years of 1933 the frozen food industry as we know it today was sponsored in that wonderful Province of Alberta as a result of Canadian initiative and Canadian capital assuring those people in the wonderful Province of Alberta that they could live more economically as a result of frozen food. Every bit of that demand was created by Canadian industry because American industry did not feel the potential in Alberta was large enough to warrant them spending any of their potential profit dollars.

MR. WHITELEY: How do you relate that to retail price maintenance?

MR. KENNEDY: I was answering counsel's question as to whether it would come from the United States.

Might I turn to the television industry for my second example. I am on rather dangerous ground and I would solicit your indulgence if I get over my head. I am not well-versed in the television business but I think we are all well aware of the fact that television, as an industry, flourished for many years in the United States. I suggest if the Canadian industry had not gotten behind television in Canada when it did and used every ounce of pressure to see that television broadcasting was made available in Canada we still might be as far behind the United States of America in television broadcasting today as we were five years ago.

MR. WICKWIRE: Thank you.

Now, page 3, the examples referred to by Mr. Simpson. First of all, perhaps it is my own mind I would like to clear, this was on the Addison T.V. set, the "advertised and sold" price was $199.95, you said?

MR. SIMPSON: I got one lower than that. It has been down to $199.00 by the same dealer.

MR. WICKWIRE: $199.00.

THE CHAIRMAN: That is the bottom price?

MR. WICKWIRE: I think you said you were

certain that that particular dealer did not have a special deal on that?

MR. SIMPSON: I have a letter from the manufacturer stating the price at which he sold that set.

MR. WICKWIRE: Would you be good enough, perhaps at the conclusion, to give that letter to the secretary so he could pass it on to the Commission?

MR. SIMPSON: Oh, yes, surely, with the permission of the manufacturer.

THE CHAIRMAN: If there is any question that that is something he would think is confidential, the information, instead of giving the letter, which would contain the name and other particulars, perhaps you could tell us what the letter says about the price at which it was sold. We could have the essential information as far as we are concerned.

MR. HUME: Mr. Chairman, the dealer's name appears in the letter. Mr. Lightbown, who I had previously called on to establish this, saw the actual T.V. set. He will repeat that statement. The letter shows the set cost the dealer $225.00, which he advertised at $199.00.

THE CHAIRMAN: That is the language used?

MR. LIGHTBOWN: I should perhaps clear one thing up. That $225.00 may have been less 2% for ten days. I do not know whether he took advantage of that.

MR. HUME: The actual words of the letter are: "The set advertised at $199.00 cost this dealer $225.00." Now, as Mr. Lightbown says, the dealer may have got 2% for ten days.

MR. FAVREAU: Is the number of units limited on the advertisement?

MR. HUME: No, there is nothing indicating how many they have for sale.

MR. SIMPSON: "Small Down Payment, 24 months to pay."

MR. WICKWIRE: That is a set currently in production, I take it?

MR. LIGHTBOWN: Yes.

MR. WICKWIRE: Normally speaking on that set the suggested list price is $369.00?

MR. LIGHTBOWN: Yes.

THE CHAIRMAN: Which, if my mathematics are correct, is 63% over the manufacturer's price to the dealer?

MR. LIGHTBOWN: Mark-up, you mean?

MR. WICKWIRE: 63%.

MR. LIGHTBOWN: Well, in our business we discount from a suggested list.

MR. WICKWIRE: In the example given the suggested list is $369.00, which is 63%. The example before that, the Easy washer, the manufacturer's price to the dealer is $71.75. I do not know whose product it is. It was advertised and sold at $89.00, which is a mark-up of 24%. The suggested list price is $135.00,

which is 90% over the price to the dealer.

Is there any question about my mathematics being incorrect?

MR. HUME: No, I think you are right.

THE CHAIRMAN: Just on this point: Do you regard a mark-up of as high a percentage as that as normal in the electrical appliance business?

MR. DARROCH: We do not regard that as a normal mark-up, we regard that as a very unusual mark-up. The average mark-up, I would say, is 33 1/3% discount, or 50% mark-up from the suggested retail price. On some radio and T.V. I understand it is below that figure substantially.

THE CHAIRMAN: If the mark-up is as high as that would it not encourage the price-cutter?

MR. DARROCH: I think it would but in my opinion those are abnormal mark-ups. The normal mark-up is 33 1/3% on suggested selling price, which is 50% mark-up.

MR. WICKWIRE: In the next paragraph, Mr. Hume, the national average cost of operating a household appliance and radio store is given as 18.59%. Are there not a great many factors, a great many extremes, from the lowest to the highest cost that go to make up the average?

MR. HUME: Obviously there are. The average is merely the average of the high and the low. I think it should be said, however, that the average is a fairly good indication of

just what it is supposed to be.

MR. WICKWIRE: There must be some who are operating at a cost greatly above the average.

MR. HUME: I would imagine that would be so, and some below.

MR. WICKWIRE: Can anyone suggest to me what the highest might be?

MR. DARROCH: May I reply to that?

First of all, I would like to point out this refers to unincorporated companies and provides no return for the proprietor, either for salary or return on his investment. If the proprietor takes out a salary or is operating an incorporated company the figures, we believe, show that their operating costs vary from 25 to 30% of their selling price. The price situation is the reversal of what has existed for years. The dealers were putting on pressure for wider margins; the manufacturers resisted that pressure, saying they had to give good value to the public, they had to keep their suggested list prices down because of competition from other manufacturers. The department stores said their operating costs were over 30% and many refused to handle an article unless they had a minimum of 33 1/3% because they said they lost money unless they had that gross margin.

MR. WICKWIRE: In your opinion would some of these dealers' costs be too high?

MR. DARROCH: I believe they should operate

for between 25 and 30%, depending on their location and other overhead expenses. I believe that would be a reasonable and efficient operation to perform the services they should perform.

MR. WICKWIRE: Some of them could operate on less than that?

MR. DARROCH: I doubt if they could operate at less than 25%, if they performed the services. If they do not perform the services they could operate for considerably less.

MR. WICKWIRE: You suggest the average cost of buying or selling is not much of a criterion when you are discussing loss-leaders because of the spread?

MR. DARROCH: I believe it is a criterion. We are talking about an industry. We are not particularly interested in one dealer or half a dozen dealers, we are interested in hundreds of dealers across this country who have done the creative advertising and have created the demand which has brought these conveniences to the public. The dealer who cuts his prices in order to wipe out the investment of these dealers and put them out of business and destroy the distribution system which has been built up through years of effort is engaging in an unfair practice in my estimation.

MR. WICKWIRE: Is it the loss-leader?

MR. DARROCH: It depends on the interpretation of a loss-leader. It is a very difficult

thing to define.

MR. WICKWIRE: Thank you.

Now, some of the services performed by a dealer are set out in the brief. There is a list of nine things I think. Now, I take it that this list of nine items applies on the original introduction of an appliance to the public?

MR. HUME: No, I do not think that is the intention.

MR. WICKWIRE: Because it strikes me, and I may not know what I am talking about and you gentlemen can probably straighten me out, that item 5, the dealer --

> "Provides facilities to uncrate, test, clean and set up products and to deliver them to the customer's home, install them, and instruct the customer in their basic operation."

Now, how much instruction does the housewife need in the case of, for instance, an electric toaster or an electric kettle or a radio or an ironer?

MR. DARROCH: You have picked on the odd small appliance which does not require demonstration in the home, unless perhaps an automatic Featherweight iron might require some instruction. Automatic appliances generally, articles like fully automatic refrigerators, automatic washing machines, even electric ranges, the woman using it, to get the full value from that product, should be instructed on its proper

use to enjoy the benefits from it and to operate it most economically.

MR. WHITELEY: I thought I saw an advertisement for an automatic refrigerator which implied you did not have to think with it.

MR. DARROCH: There are many aspects of operating a refrigerator where you can obtain far greater value from it if you know how to operate it.

MR. WHITELEY: This advertisement seemed to suggest you just had to put it there.

MR. WICKWIRE: Item 6:

> "Has a home economist or other staff personnel to call at the purchaser's home and educate the housewife in the proper use of the product to get the most value, enjoyment and the best results from owning it."

There must be lots of dealers who do not maintain home economists on their staff.

MR. KENNEDY: There are many who do not.

MR. WICKWIRE: There are many that do not; most do not.

MR. KENNEDY Many do.

MR. HUME: "Home economist or other staff personnel", they might have them to demonstrate a Bendix.

MR. WICKWIRE: Item 8:

> "Does advertising to educate the public as to the benefits, features

and prices of the products and savings resulting from their use."

Does not the manufacturer, to a great degree, do that advertising?

MR. SIMPSON: I think that was amply illustrated by Mr. Jennings this morning. What we have tried to explain to these people is that to obtain and maintain sales on a product it is necessary to have a dealer organization all across the country. They, in the past - and later on I use the words "in the past" - were willing to contribute a great deal from their own personal pocket to advertise the product in their own locality, which was backed up by the manufacturer in national advertising.

MR. WICKWIRE: In other words, a combination of both?

MR. SIMPSON: That is correct.

MR. WICKWIRE: Now, I have a question which I have asked a good many times and I really have a group now from whom I expect to get an answer. In your opinion, gentlemen, are there not too many dealers in the electrical appliance business?

MR. DARROCH: I will express my opinion on it. We have quite a large dealer organization and, in my opinion, there are not too many dealers. To properly display these products to the public, to represent the various brand name manufacturers and to do a proper selling job, it is done better by a reasonable number

of dealers; and in my opinion there are not too many dealers.

MR. HUME: Do you want some additional answers from other companies?

MR. WICKWIRE: Just while Mr. Darroch is there. Your product is Moffats, Mr. Darroch?

MR. DARROCH: Moffat Ranges, Crosley Refrigerators and other Crosley products. Bendix Washers and Dryers.

MR. WICKWIRE: Has there been an increase in the number of dealers in your organization selling your products since the war?

MR. DARROCH: Since the war, definitely, yes. We purposely went out, after the war, to build up a considerable dealer organization across this country, that was our prime objective in merchandising subsequent to the war; and we did it.

MR. WICKWIRE: Your company is not interested in small appliances?

MR. DARROCH: Yes.

MR. WICKWIRE: I really wanted an answer from somebody who is in the small appliance industry.

MR. JENNINGS: What is the question?

MR. WICKWIRE: Are there too many dealers in the small appliance industry?

MR. JENNINGS: As far as we are concerned now we think there are too few.

MR. WICKWIRE: In your case, Mr. Jennings, you want them in jewellery stores and drug stores

as far as kettles and irons are concerned.

MR. JENNINGS: It might help the thinking here a little bit to separate the irons from the toasters from the automatic washers, and so on. We think in the small appliance field we are able to get additional volume through what we call intensive distribution or mass exposure, having these on display in a large number of stores. The small appliance business does not, in itself, constitute a large proportion of any retailer's business, it is a thing he handles. The hardware handles it but sells a small percentage of its total volume. Mr. Lewis said yesterday his small appliance business was small in relation to his entire volume.

MR. WICKWIRE: I am talking now of dealers who deal in appliances, be they large or small?

MR. JENNINGS: Be they large or small. I am not in the major appliance business. There is one thing, I did read through the green book - I might get into trouble again - and I believe there is in there, as I recall it, indication of government statistics which indicate that the number of appliance dealers increased about twice in the period under review; but I think the volume, as I recall it, was considerably higher than it had been. I would not want to comment any more about major appliances because I have never been in the major appliance business.

MR. WICKWIRE: Perhaps you can answer this,

Mr. Jennings: Has there been a big increase - perhaps you have answered it: You say there has been a substantial increase in the number of appliance dealers?

MR. JENNINGS: In the number of appliance dealers, yes, there has been an increase.

MR. WICKWIRE: In your opinion there never can be too many?

MR. JENNINGS: I did not say that. I said there were too few now,handling our appliances now.

THE CHAIRMAN: You explained that this morning, too, I think?

MR. JENNINGS: Yes, sir.

MR. WICKWIRE: Any other gentlemen?

MR. HUME: Anybody else in small appliances?

MR. KENNEDY: I would like to suggest something. In so doing I may take one or two minutes of your time. This has relation to the major appliance field. we do not gain too much from the past but I think you are well aware of economic conditions since the end of World War II in Canada. We were constantly short of steel, copper, foreign currency, dollars, to buy certain components that were not produced in Canada.

MR. WICKWIRE: Therefore, there was a scarcity?

MR. KENNEDY: Yes. Obviously many people in the major appliance business did not increase their dealer organization to the point they would

have liked. They distributed products which were available to the existing dealer organization. Once the period of shortage had been overcome, due to reasons best known to our Federal advisers in Ottawa, restrictions were put into effect, restrictions in relation to consumer credit. Obviously, then, some manufacturers did not increase their dealer organization because of the potential available. Some dealers in the major appliance business were just about ready to increase their coverage of major appliances at the time this legislation we are discussing today became effective, with the end result that, as Mr. Jennings explained so well this morning, some people in the major appliance business drastically need greater coverage. They have no one to appeal to, as indicated in the number of banks, finance companies, etc., learning and knowing of the state of the major appliance business as it is today, to some degree depending on loss-leader selling, refusing to advance the money to allow those people to get into the appliance business.

MR. WICKWIRE: Well, I am aware that the Association of Retail Appliance Dealers here in Toronto, and also nation-wide, have passed some resolutions dealing with this subject. You have seen those, Mr. Kennedy, I take it?

MR. KENNEDY: I assume I have, sir. I am not familiar with the document at the moment.

MR. WICKWIRE: Resolution 1, passed by 142 dealers at a meeting in St. Margaret's Hall on April 28th:

> "It is the opinion of the dealers present, where list prices are too high, that the manufacturers immediately adjust their suggested list so as to bring back to the buying public some semblance of value so that the cut-price dealers cannot show such a difference between the manufacturers' suggested list and their selling price."

MR. KENNEDY: I am aware of that.

MR. WICKWIRE: Would you, as a manufacturer, agree with that or disagree? I take it you disagree?

MR. KENNEDY: I would agree, sir, if I may, sir, with the statement of Mr. Darroch that an appliance dealer in the major appliance business, in my humble opinion, cannot be successful for any reasonable period of time unless he is attempting to merchandise on a sound basis. To keep this in chronological order with the way you have discussed mark-ups before I will deal with mark-ups rather than discounts. I do not believe a dealer can render the services required or expected of him, do the educational work, do the creative job of selling, take care of the people who have old products which

should be replaced with new ones, short of his invoice cost plus 40% on his cost or, roughly, 30% on his retail price.

MR. WICKWIRE: Then, Mr. Kennedy, why does not the manufacturer do something to help the dealer in his present plight?

MR. KENNEDY: In what respect?

MR. WICKWIRE: You place great emphasis on the services which you say must and should be maintained by a dealer to protect the dealer, to protect the manufacturer and to protect the brand name. Now, if a dealer is not maintaining the services required by the manufacturer why does not he do something about it?

MR. KENNEDY: I would think that the majority of manufacturers who find a dealer who is not performing reasonable services from a mechanical service point of view does everything about it that the law will currently allow him to do.

MR. WICKWIRE: So, when you say maintaining services, he is maintaining a selling force, advertising in a certain way, the way the manufacturer lays down. Surely the manufacturer can stipulate how that is to be done.

MR. KENNEDY: That is right, sir.

MR. WICKWIRE: Now, if dealers are not doing that sort of thing why do not the manufacturers do something about it?

MR. KENNEDY: I think the majority of

manufacturers would like to know how they can do something about it, sir.

MR. WICKWIRE: The only stipulation, as I understand it, that is presently placed on the manufacturer is that he can do anything he likes with regard to his product as long as he does not stipulate the price. Is that not your understanding, as long as he does not set the price?

MR. KENNEDY: There appears to be a certain amount of disagreement on the interpretation of the intent of the Act. We know - when I say "we know", I think I know - that the discount house, as it is commonly known, does not, and cannot, do many of the things which are normally expected of the dealer. We have no reason and no licence, might I say, to cancel that dealer's franchise. It is hard to prove that he is not demonstrating the products to the public the way he should. It is hard to prove he is not offering the public many of the courtesy services, etc., that are expected of the retail dealer. I think that has been proven in the United States and this country as well.

MR. WICKWIRE: Well, it has been suggested to us - certainly to me - that there has been certain types of advertising taking place in the City of Toronto which is misleading, harmful, and what have you. Say, for instance, the nailed down article we have talked about which

is advertised extensively. Now, if a manufacturer finds that has been done, surely it must be a simple matter to prove that. Why does he not cut that dealer off?

MR. FAVREAU: I think the majority of manufacturers would welcome that sort of proof, I honestly believe it.

MR. WICKWIRE: So, the manufacturer has a remedy in his own hands under the existing legislation to stop that sort of thing.

MR. KENNEDY: He has that, as you say, sir, subject to being accused in a court of law that the basic reason for cancelling the franchise was that that dealer did not sell at the suggested price. Is that not true? That is my lawyer's interpretation of it.

MR. WICKWIRE: I suppose the difference between your thinking and my thinking is if a manufacturer cuts a dealer off because of a practice such as we have been discussing you will say the dealer will go into the court of law and say that was not the reason he was cut off, he was cut off because he cut the price?

MR. KENNEDY: I think that is the normal assumption.

MR. WICKWIRE: Is that what your thoughts are on the matter?

MR. KENNEDY: I believe that is right.

MR. WICKWIRE: Surely it should not be very difficult for a manufacturer to establish

that if a dealer was not carrying out his merchandising policy with respect to servicing, with respect to advertising; it strikes me it should not be so terribly difficult to prove that.

MR. HUME: It is expensive.

MR. KENNEDY: It is very encouraging to hear your view on it.

MR. WICKWIRE: You, as a manufacturer, do not take that view?

MR. DARROCH: May I interject a word?

MR. WICKWIRE: Yes.

MR. DARROCH: We think it would be most difficult to prove that you terminated a dealer's franchise for other than price consideration. Price is an important thing in all these matters. Most dealers advertising at reduced prices are careful not to misrepresent the product. They also give pretty good service in the large metropolitan areas. But, their prices are preventing the small dealers in small communities giving the services they should be offering to the people of those communities because of the prices advertised in the Toronto papers.

THE CHAIRMAN: Mr. Darroch, may I ask a question: Do you think it would be easier for a dealer who was cut off to prove he was cut off because he cut prices than it would be for the manufacturer to prove that he cut him off for other valid reasons? That is what the issue would be if it came to court.

MR. DARROCH: I am not sure how you would prove you cut him off for other valid reasons unless you could prove he was not performing these functions.

THE CHAIRMAN: How does he prove you cut him off because he was cutting prices?

MR. DARROCH: Because he is cutting prices.

THE CHAIRMAN: Surely, there are some instances in which it is easily proven. The evidence, from what we have been told, would be pretty strong. Mr. Wickwire has referred to the case of the nailed down article. We have had some evidence given to us yesterday of an advertisement of that type in which the person who gave the evidence said he went to the store within an hour or two of the time the advertisement appeared - there were two types of articles offered in this advertisement. He saw two items of each type and all four of them had a sold tag with the name and address of the purchaser. He said he investigated and found there were no such persons at any of those addresses. He also said that he went back two weeks later and the machines were still on the floor with the same sold tags on them.

MR. DARROCH: I am not sure that would be sufficient proof for the manufacturer to cut that dealer off. The dealer has the right to sell that product at whatever price he likes.

Then, the other problem is the cost of investigating activities of that kind.

MR. HUME: We are getting into the field of law with which Mr. Darroch, perhaps, is not familiar. If that is found to be so, and I understand it does happen, very often there is a distributor between the manufacturer and the retailer. How can a manufacturer cut off a retailer when he has no privity of contract with him.

The other comment, and what is implicit in your previous suggestion, I think it must be said that most manufacturers would not want to invite the possibility of a prosecution, with the cost of litigation, unless there was something very serious that they could put their finger on. The thing has not been tested, and that may be the reason why manufacturers are not relying on some of these other things, they do not want to be the one who is prosecuted and pay the cost of that.

THE CHAIRMAN: That is what I was coming to. So far as I know there has never been a test case in court, and it is perhaps not quite logical to assume that the manufacturer has no remedy and no power to cut off a dealer when he has not tried it in order to find out. The law only precludes one ground of cutting off.

MR. HUME: That is the only ground we are complaining about today. These other things you have heard about other days, we have not brought them in. There is nothing in our brief

to suggest that.

THE CHAIRMAN: I was also interested in your remark that in many instances there is a distributor between the manufacturer and retailer. That also applies to the difficulty involving resale price maintenance.

MR. HUME: Except, before 1951 one could make a contract with one's distributors as to persons to whom he should or should not sell. We cannot do that now.

THE CHAIRMAN: Does the manufacturer know from what distributor the retailer got the goods?

MR. HUME: In very few cases he did not know, as I think was pointed out here and in other places. Before 1951 resale price maintenance could never work as a system because of all these things you have mentioned. There are a great many things went into it.

THE CHAIRMAN: I think it applies on the other side of the fence as well, it illustrates one of the difficulties of trying to make resale price maintenance effective where the manufacturer does not sell direct to the dealer, he deals only through distributors. Unless he can identify the goods as having gone through a certain distributor he would have the greatest difficulty in proving from whom he got the goods and thereby be in a position to cut him off.

MR. HUME: The big ones have serial numbers.

THE CHAIRMAN: Where you have serial

numbers and keep a record of the serial numbers sold to the distributor you have an opportunity; but no manufacturer would cut off a dealer unless he knew the matter could be proved.

MR. SIMPSON: The serial numbers apply to large items.

THE CHAIRMAN: What about traffic items?

MR. DARROCH: No.

MR. LIGHTBOWN: It is not so simple to cut off a dealer. The dealer is a human being. We cut a dealer off. We wrote a letter to him telling him we were going to cut him off and defied him to sue us. He had two or three of our refrigerators on hand and he put an ad in the paper. We felt it cost us thousands and thousands of dollars worth of business right in this city. He gets vindictive and he still has one or two of your products on hand.

THE CHAIRMAN: One of the remedies that I understand your organization wants, and certain of the others have asked for, is the right of the manufacturer to refuse to sell to the person who cuts his price. Do not you wish that remedy to be available for other good and valid reasons?

MR. HUME: They have that now.

THE CHAIRMAN: You say it is a very difficult thing to apply.

MR. HUME: I take the purport of Mr. Kennedy's answer was that if a manufacturer had

grounds indicating that something was wrong, apart from price, forgetting price, either that the dealer was doing something he should not, that the manufacturers do, in fact, step in and protect themselves, and they have that right and I think he meant that it is being exercized.

MR. DARROCH: I would like to say in the past we have terminated franchises for reasons other than price. We have done so since the re-sale price war, and they stuck. But, the big consideration is price maintenance.

THE CHAIRMAN: It would strike me that some statements in the brief are more sweeping than they should be.

MR. WICKWIRE: To go back to Mr. Lightbown's answer, that the dealer is a human being. I take it you had valid reasons to cut him off, other than price reduction?

MR. LIGHTBOWN: Yes.

MR. WICKWIRE: You did not want to cut him off because of the volume of business he was doing.

MR. HUME: No, he said he did cut him off.

MR. LIGHTBOWN: We did cut him off for several reasons. One was price-cutting. We did not say that.

MR. HUME: There is your first case, Mr. Chairman.

MR. WICKWIRE: Mr. Lightbown, we had one chap before us who was talking quite fast and

the reporter could not get his evidence down. He said, "That is all right, I talk faster than I think."

MR. FAVREAU: That is a privileged communication.

MR. LIGHTBOWN: We had a valid reason because he would not pay his bills.

THE CHAIRMAN: which need not be related to price cutting.

MR. LIGHTBOWN: His price-cutting was incidental.

MR. WICKWIRE: Now, at the foot of page 4 you quote Dun and Bradstreet's figures of failures - and I take it that is in the small appliance business?

MR. SIMPSON: No, it is appliance and radio store failures.

MR. WICKWIRE: Appliance and radio stores for the years 1950 to 1953.

Is there any suggestion there, Mr. Simpson, that this is because of the policy of resale price maintenance?

MR. SIMPSON: We think there is, yes. As shown by the increase. You will notice that while there were eighteen in 1952, immediately subsequent to the legislation, it has risen in 1953 to forty-three. You can also look at the amount of money involved.

MR. WICKWIRE: There were twenty-two in 1952.

MR. SIMPSON: Yes. There is no material change in 1951 and 1952, this is just catching up with us. That is the reason we are here.

MR. WICKWIRE: I would like to quote to you what Dun and Bradstreet's say are the causes of financial failures:

"'This is only the aftermath of war,' said one economist.

"'The impetus of wartime scarcities persuaded many new people to enter business for themselves. They did not do too badly, until the return of the competitive buyers' market. Then they simply folded. If you examine cases you will find that a great many failures in the manufacturing as well as the retail field have occurred in companies that have not been in existence for more than ten years.

"'Competition is becoming greater in almost all industries, other than those few that are particularly busy on defence orders.'

"'A large number of failures in small business were due primarily to the fact that inexperienced persons were meeting competition for the first time,' said a well-known management consultant.

"'Until the last two or three years, cost has meant so little. People

were able to sell whatever they had with no haggling over costs. Now with keener competition, and buyer resistance, the picture has changed.'"

The Financial Post on September 6th, 1952, says:

"Incompetence or lack of experience in one way or another continues to be the major causes of failure."

Would any of you gentlemen like to comment on that?

MR. SIMPSON: I would think in part that is quite true. We know there are a lot of inexperienced people going into business and that they do not make much of a success of it; they did not have the experience or the capital to back them up. That does not say that is the case in radio and appliance stores.

MR. WICKWIRE: It might be part of the cause.

MR. SIMPSON: That is what we say, it is a cause.

MR. DARROCH: May I comment, Mr. Wickwire?

MR. WICKWIRE: Yes.

MR. DARROCH: Appliances have been in abundant supply during and since 1950. Those comments you read I believe are what are generally given by credit companies and banks for failure in business, and generally they are very true; but I think there has been an increase in failures in this industry due

to this R.P.M. legislation situation.

MR. WICKWIRE: That is your belief?

MR. DARROCH: Yes, as well as the other factors you mentioned. They apply generally but it has been accelerated in this industry.

MR. WICKWIRE: On page 6 in the brief you state:

> "The introduction of new and/or improved products is essential to continuity and to the maintenance of employment in the Industry. That this is not now being done is evidenced by the complete lack of promotion and advertising on a national basis."

I suppose advertising in the Globe and Mail would not be considered advertising on a national basis. Someone has given us statistics on the percentage coverage of the Canadian market by the Toronto newspapers as being 40%.

MR. SIMPSON: 38%.

MR. WICKWIRE: 38%. Several pages were taken up this morning advertising air conditioning equipment. That would not be national advertising?

MR. SIMPSON: No, unless it was directed through many local newspapers throughout the country. National advertising would be considered to be advertisements in magazines of national distribution which reached the consuming public as purchasers.

MR. WICKWIRE: There would not be a complete lack of promotion and advertising because you say there is a complete lack of promotion and advertising on a national basis?

MR. SIMPSON: If you want to strain the word "complete". Let us say it is very, very much less than if we were --

MR. WICKWIRE: Complete is not my word.

MR. SIMPSON: No, it is my word. You are taking a particular instance today --

MR. KENNEDY: I think, as partial explanation of the advertisement you make reference to, and I for one being in the refrigeration industry was very, very pleased to see it and feel that the refrigeration industry in Canada had sufficient foresight to advertise a relatively new industry in Canada. The package type air conditioning business in Canada is a relatively new industry. It is an industry in the United States which has reached a very high saturation point. The industry at the manufacturing level of recent years have taken one further final gamble, which is not generally speaking available to that section of the trade that are particiating in price-cutting. I think if you study the ad sufficiently that will probably be proven. You see the dealers' names in the ad. I think you will find one or two who are referred to commonly as discount houses; but the majority of window type air conditioners sold as a result of these ads will

be sold through the channel of the refrigeration business which is known as the commercial refrigeration business rather than the appliance business. I might emphasize that by telling you many of the dealers in our dealer organization are reluctant to buy floor samples of window type air conditioners because they are feeling exactly the same way as they do about ranges, etc., that it will only be tomorrow when some price-cutting organization will offer them at prices that will not allow them sufficient profit to cover his overhead. That dealer, particularly in the area outside Toronto, when he sells window type air conditioners to you for your office or your den must have sufficient gross dollars to make sure that that particular piece of apparatus works to your satisfaction. It is one piece of apparatus which takes a great deal of effort on behalf of the actual final seller. The installation of it, the satisfactory operation of it, the amount of time and effort that he or his salesman must spend with you or your wife to make sure you get satisfactory results with that particular apparatus, which up to this point has not been considered as an appliance, it has been considered as a piece of commercial refrigeration apparatus. That may help to answer the question.

MR. WICKWIRE: Thank you.

Now, on page 7:

"The continued existence of the manu-

facturers of electrical appliances in Canada is based upon their being able to provide their products for Canadian users at the lowest possible prices and they welcome healthy price competition at the manufacturers' level and at the retail level."

Now, with retail price maintenance, how does that make for price competition at the retailer's level?

MR. SIMPSON: I would say, Mr. Wickwire, there is more involved than we have stated in this brief. It was not at all times possible to maintain prices because various dealers would sell at the suggested price but part of the deal was a turn-in and there allowances were different. There are many things that enter into it.

MR. WICKWIRE: I suppose there is quite a traffic in trade-ins?

MR. SIMPSON: Yes, that is correct. There are many things which affect the actual price of the dealer, other than the suggested price in the newspaper.

MR. WICKWIRE: To adequately maintain prices under retail price maintenance it is a very expensive proposition, is it not, for the manufacturer?

MR. SIMPSON: I think we have stated later on that while there are exceptions to this most dealers reasonably adhered to prices which gave

them a normal return.

MR. DARROCH: Mr. Chairman and Mr. Wickwire, we have never found it expensive to know what our dealers are doing if they reduced their prices. We hear about it the next day, if we do not see it in the newspapers. We hear it on the telephone.

This paragraph you have just mentioned. If we bring out a refrigerator with a suggested list price of $359.00, we like to keep that price as low as possible because some competitor might have one at $349.00 of comparable value. If we can possibly do it we will reduce our price to $349.00 to be on a competitive basis with him.

MR. WICKWIRE: So, you are suggesting competition, then, is manufacturer with manufacturer?

MR. DARROCH: Yes.

MR. WICKWIRE: On page 8 it is stated, I think it is about the fourth sentence:

> "The greatest number of electric ranges ever produced in Canada could have been produced by the present productive facilities of the three largest Canadian companies."

Now, gentlemen, there may be quite a bit of discussion among you in regard to my next question: Has there been over-production in these things?

MR. DARROCH: Yes. I think on electric ranges there has not been much over-production, perhaps some, but nothing extensive or to be

too greatly concerned about. Some manufacturers have been badly loaded with them - and that can happen very quickly, in just a month or two. In refrigerators there has been great over-production. There was a great carry-over from last year to this year, and the same the previous year. On some products there has been substantial over-production.

MR. WICKWIRE: In instances, Mr. Darroch, where over-production occurs, how does the manufacturer get rid of these big industries?

MR. DARROCH: Mr. Wickwire, there are several ways it is done. He sometimes maintains his prices and goes out to sell them through more intensive selling effort and through advertising and through his salesmen actually going out and trying to get orders for them. If he fails to do that and he has no alternative he usually reduces his net price. He is forced to because of the competitive situation. That always existed, even before the war and this legislation.

MR. WICKWIRE: And always did?

MR. DARROCH: Yes.

THE CHAIRMAN: You would not want that changed?

MR. DARROCH: No. We expect that if you make a wrong judgment you suffer from it and have to liquidate that inventory before you are finished; but in the past that was done without disturbing the trade to any great extent. It

could be done by selling them to dealers at a special net price and the dealers would make a special deal with their customers, but they did not advertise it or spread it across the country in full-page ads so that the people who purchased that item previously at a higher price felt the dealer had gypped them. The dealer used it to allow more for a trade-in and give good value to the people, or sell it at a lower price. But, it did not disturb the industry as it does today.

MR. WICKWIRE: In those instances where it has happened, and you say probably always will happen, the restoration of retail price maintenance is not going to help the situation?

MR. DARROCH: No, it will continue and there will always be liquidation of over-production.

MR. KENNEDY: Mr. Wickwire, there are some statistics in the brief which refer to approximately 220,000American-built refrigerators being imported into Canada in 1953. I would like to suggest that the carry-over of 1953 refrigerators into 1954 in Canada was quite highly composed of these imports. I would further suggest that if a normal number of imports from the United States had come into Canada that Canadian production would certainly not have been head of the line in 1953. I think you will understand it is common practice for a Canadian manufacturer to try and forecast the potential available for

refrigerators in the forthcoming year and, then, arbitrarily or otherwise make up his mind that he expects to get X percentage of that volume. Having done that he proceeds to build them. Unfortunately, and in a similar manner, the textile trade, I think everyone is aware of the literal dumping of tens of thousands of refrigerators in Canada in 1953 and 1954, otherwise the legislation would not have been changed to prohibit the dumping of refrigerators. The over-production of refrigerators in 1952 was not Canadian production.

MR. WHITELEY: What would be the situation if you had not had the volume of Canadian refrigerators moved through the cut-rate houses?

MR. DARROCH: Would you repeat the question?

MR. WHITELEY: What do you think the situation would have been had the Canadian-made refrigerators not been featured so largely by the stores which advertised so much?

MR. DARROCH: We think the carry-over would have been greater or less?

MR. WHITELEY: Whether the carry-over would have consisted to such a large extent of American imports?

MR. DARROCH: I believe if normal merchandising had applied the carry-over would have been somewhat less. Do I answer your question?

MR. WHITELEY: The implication of your answer is that there was a substantial over-supply of refrigerators in total, consisting of

Canadian manufacture and American imports?

MR. DARROCH: Maybe I could answer your question this way, and again I am not trying to be evasive: Reasonably sound figures would suggest that there were almost twice as many refrigerators of 1953 manufacture carried into 1954 as there were 1952 refrigerators carried into 1953; but, a higher percentage of those carried into 1954 were imported refrigerators. The Canadian importer, when he heard of the legislation to be enacted, bought as rapidly as he could and brought into Canada as many refrigerators as he could before that legislation became effective.

THE CHAIRMAN: Would that mean the dumping of American refrigerators in Canada did not enable them to be sold?

MR. DARROCH: Yes. The market will never absorb them so fast.

MR. WHITELEY: The legislation you referred to refers to imports?

MR. DARROCH: Yes, nothing to do with retail price maintenance.

THE CHAIRMAN: The price at which they came in would have encouraged their sale in Canada?

MR. DARROCH: It did to some degree.

THE CHAIRMAN: But in spite of that the carry-over is in the imported models, rather than locally produced?

MR. DARROCH: A great many more than the year previously.

THE CHAIRMAN: Mr. Whiteley's question was if Canadian models had not been advertised at these cut-prices to such an extent would the carry-over, in your opinion, have been altered to some extent so there would have been a larger proportion of Canadian machines not sold, and perhaps not so many of the American models unsold? Did the cutting of the price of the Canadian machines or appliances lead to a greater sale than would have taken place if the prices had been maintained?

MR. DARROCH: I would be pleased to express what I believe are the facts. 1953 merchandise, of an imported variety, was offered in ample quantity in many part of Canada at prices which did not represent any net profit to the first importer on a direct basis. I mean, proof could be developed where refrigerators were sold to dealers at X number of Canadian dollars and that number of Canadian dollars did not represent the landed cost in Canada of that American-built refrigerator.

THE CHAIRMAN: Even though they had been dumped?

MR. DARROCH: That is what started a good portion of the price-cutting during the year 1953.

THE CHAIRMAN: An overload of American supplies led to price-cutting in Canadian goods?

MR. DARROCH: Yes.

MR. WHITELEY: Did a substantial reduction

in the price of Canadian refrigerators result in a volume being moved that otherwise would not have been moved?

MR. DARROCH: There, again, I trust you will grant me your indulgence. Canadian employment, Canadian bank deposits, all of these things added up certainly suggest 1953 was practically as good an economic year as the preceding year. There were some 92,000 homes completed, I am told, in 1953, which was probably an all-time high. My answer to your question is: From the statistics that the volume, including the imports, in 1953 was not as great as 1952. The price-cutting, in my opinion, during the last quarter of the year detracted the essential stimulant of thousands of dealers trying to sell and turned their efforts to some other lines of business which were not affected by the price-cutting apparent in our segment of the industry.

MR. WHITELEY: If the prices had been kept up there would have been a greater sale of American and Canadian refrigerators?

MR. DARROCH: Yes. More people would have continued their efforts in selling the type of appliances we have to sell, rather than being rather ashamed that they were in this type of business and putting their talents into some other sort of business.

MR. WHITELEY: Have you any information as to the districts in which the imported refrig-

erators moved in most volume?

MR. DARROCH: Yes, we have, sir. It is general.

MR. WHITELEY: Throughout the country?

MR. DARROCH: Hm hmm. We would be very pleased, if you want that information to show the relationship by provinces. We would be very pleased to develop that information for you. It is available through D.B.S.

MR. WHITELEY: This information as to deep price-cutting appears to be found in only particular districts. One would expect the figures would show, or reflect in some measure the difference in different parts of the country.

MR. DARROCH: We agree that the price-cutting is predominantly in the major markets. It is the only place it could survive. It is the only area where it can survive on such a small margin.

MR. HUME: Do I understand, Mr. Whiteley. what you would like are figures showing the number of sales of U.S. imports in relation to Canadian-made refrigerators?

MR. WHITELEY: If you have those. I think if you show the provinces into which the imports came.

MR. HUME: If they are available we will try and get them.

MR. WICKWIRE: My next question may be redundant. I think we have discussed it already,

but just to clear it up. There is a statement on page 9:

> "Appliances are not sold through exclusive dealers and the dealers' policies are not subject to extensive control by the appliance manufacturers. Without the right to exercise some control over prices. . ."

I take it you mean resale price maintenance, which is complete control. You ask for that later on so I take it "some control" means complete control. The manufacturer has no control of dealers. Mr. Lightbown of Audison's has given us one illustration of where he had some control over dealers and we have discussed it previously.

MR. SIMPSON: These are not exclusive dealers; one dealer may handle any number of different products.

MR. WICKWIRE: I suppose it is open to a manufacturer to open exclusive dealerships?

MR. SIMPSON: That is in the hands of the dealer. He does not necessarily agree to be an exclusive dealer.

MR. WICKWIRE: The manufacturer, could he not licence them?

MR. SIMPSON: He could licence people but the man might take a licence from another manufacturer.

THE CHAIRMAN: They have not the same type of contract as automobile dealers?

MR. SIMPSON: Yes.

MR. DARROCH: We would like to have that kind of contract but it is not practicable and the dealers will not agree to such a contract.

MR. WICKWIRE: Dealers on the one hand, will blame you for certain things; but when you try and get them in agreement on other matters, they back out.

MR. DARROCH: I do not blame the dealer not wanting to operate an exclusive appliance agency today. He needs a variety of appliances to obtain sufficient volume to pay his overhead. Furthermore, I do not think you could interest anybody to invest money in an appliance dealer --

MR. WICKWIRE: On page 10, the second paragraph, it is stated:

> "Obviously this legislation at its inception was not aimed particularly at household appliances but was intended to prevent combines from operating contrary to public interests or to unduly restrict trade."

As I understand it the legislation was enacted, preventing manufacturers enforcing retail price maintenance, to encourage competition at the retail level.

MR. HUME: Most of us were down before that Parliamentary Committee twice and it was stated to my memory that one of the purposes was to prevent combines on the vertical level. That is

all that is meant there. Combines on the horizontal level have been prohibited for some time. It is only the vertical level that is implied in that statement.

MR. WICKWIRE: That is all that is implied. On page 12 this statement appears:

> "Persons contemplating the purchase of an electric appliance usually conduct a careful study and are influenced by newspaper and magazine advertisements, television commercials and radio advertising. They visit dealers' stores and decide on the particular appliance they wish to buy."

Now, how do you reconcile that, gentlemen, with all the things which are necessary to be done by a dealer, as set out in items 1 to 9 on pages 3 and 4?

MR. SIMPSON: I can answer that very easily from my own personal experience.

My wife and I are situated like many other people, we cannot have these things all at once. We have waited until we could afford them and bought them one by one. The only place you can see the various models of the various manufacturers is to go to a dealer who properly displays them, which costs him money to do. On three occasions we went, not only to several dealers' stores who carried the different models of different manufacturers but, on top of that, went

over to the Canadian National Exhibition before we decided which one we wanted.

While you are on that question of service, when we came home, because we live ten miles north of the City and it is not easy to obtain service, I called a particular dealer to come up and demonstrate these three things. At my wife's request I had to 'phone on these three different items and ask for a demonstration. I can speak freely but that happens to be from personal experience.

MR. WICKWIRE: Is it not so that prospective customers will shop for price?

MR. SIMPSON: Under normal circumstances and during this legislation they would go into their neighbourhood dealer's store and he would spend time on them demonstrating the article to them. Then, when he had made a sale he would install it in their house. They knew they would get the same deal from somebody else but he was the community dealer. Now, anyone within 150 miles will come into Honest Ed's or whoever is selling it at a cut price.

MR. WICKWIRE: which indicates price means something to the consumer.

MR. SIMPSON: Price always means something. What would happen to the manufacturer if all the sales were concentrated in the major cities in five or six large stores? How does he distribute his products? How is the public educated

in the use of the product or the salesman in the sale of the product? That does not make sense, that sort of argument.

MR. WICKWIRE: You are suggesting buyers are greatly influenced by newspaper and magazine advertisements, television and radio advertisements?

MR. SIMPSON: At the national level, and then they have to go to their dealer to find what it is all about.

MR. WICKWIRE: What you are suggesting is that the manufacturer - and I think this is what it gets down to, fundamentally, Mr. Simpson - should have the right to fix the price, as distinct from the retailer, or body of retailers who are selling these products. That is what it boils down to?

MR. SIMPSON: I do not like the word "fix"; we do not fix prices. What we want is the right to do business with whom we will.

MR. WICKWIRE: Is not that what it amounts to?

MR. SIMPSON: I think the manufacturer should have that right.

I am a professional engineer. If I were on a consulting basis I would have the right to charge for my services. If I was an architect I could. You, as a lawyer, can charge for your services.

The manufacturer has to determine, before he puts an appliance on the market, two things.

He has to survey that market and know what volume he can count on and what price. He has to know that to determine what money to spend on development.

MR. WICKWIRE: And what to produce?

MR. SIMPSON: Yes.

MR. WICKWIRE: What about the retailer? We have talked about the lawyer, the engineer, the manufacturer. Should the retailer have any say in the price?

MR. SIMPSON: You have a principle there, that the manufacturer and the retailer, in common, are responsible for the development and sale of these products. That has to be a nation-wide service. It cannot be concentrated in one or two places. Obviously the dealer who sells a few refrigerators a year, a few ranges a year out in Mudville, wherever located, has to have a wider margin than the fellow along the Danforth here who sells in volume and takes all the customers who have been educated by this other fellow 150 miles from Toronto. He can afford to take less margin, for one thing, and if he did not take any margin at all, no down payment, twenty-four months to pay, he can borrow the money for 5% at the bank - he has enough security to do that - and he compounds the interest monthly and makes a total of 21% on his money.

MR. WICKWIRE: You say the poor fellow in Mudville. Has not the customer got hurt, to pay the same price as you say the poor fellow in

Mudville is going to sell to the residents in Mudville?

MR. SIMPSON: Yes. Reasonably so, depending on what the dealer does on trade-ins and so on.

MR. WICKWIRE: Now, on page 16 of the brief it is stated:

> "Free enterprise is what the name implies, a system where business regulates itself because of the laws of supply and demand and the effects of free competition in regulating price. We doubt if this can ever be successfully done by legislation."

I am going to read a portion of an article entitled Cost Factors in Price-Making by Howard Clark Greer, Vice-President of the Chicago, Indianapolis and Louisville Railway, formerly President of the American Accounting Association, and I would like your comments on it. He says:

> "In a free economy no seller is 'entitled' to a price which will cover his costs. He is entitled only to the price the market affords. He must learn to live on that price, or quit. He cannot burden the buyer with excess costs; he must absorb them himself.
>
> "In a free economy the buyer is king. He buys what he wants, pays what he chooses. He must offer enough to bring out the production he desires, but makes his own price controls, and

it is surprising only that he should imagine anyone else could do it better."

Would anyone like to comment on that?

MR. SIMPSON: That is unadulterated nonsense. You, as a businessman, should know that. That opinion is no better than that of any one of one hundred and fifty million Americans.

THE CHAIRMAN: That is one man's opinion, anyway.

MR. WICKWIRE: I will give you, now, the Canadian part of it. This article is entitled "Let Supply Demand Work Consumer President says". This is the President of the Canadian Association of Consumers. The article appeared in Drug Merchandising, dated April 15th, 1953. I think it should apply to the appliance industry, too:

> "How and where women will shop dictates what business will flourish, where labor will be employed and what and where capital will be invested."

> "Competition that produces variations in prices of goods between one article and another in different stores, is the consumer's indication of the immense protection she is receiving through the workings of a free economy."

"Mrs. Walton concluded with the belief that it was
"time that all sectors of the economy - labor, agri-
"culture, industry and the retailer - stopped

"giving lip service to free enterprise and being
"the backbone of the Canadian economy, and gave
"a little more active service to make certain that
"'we do not, through each seeking legislative
"privileges or protection for its own group at
"the expense of other groups, voluntarily surren-
"der our freedom of choise as individuals.'"

MR. HUME: Before Mr. Simpson says anything, who said that? Just to make sure it is nobody in this room.

MR. SIMPSON: I know it is nobody in this room.

MR. WICKWIRE: That is Mrs. W. R. Walton, Jr., National President of the Canadian Association of Consumers.

MR. SIMPSON: I have known Mrs. Walton for many, many years, and she is a very excellent type of individual; but she, like many other women, has never been in business, she does not know the problems involved in the necessity of maintaining employment for many people. She is head of a women's organization and she would, naturally - like any other woman - like to buy everything as cheaply as she can - and I do not blame her for that; but I think she is totally misguided in her thoughts. I wish to repeat, she is an excellent person. She was at the hearings in relation to this legislation and had quite an effect on its passage. That is why we

are here today.

MR. LIGHTBOWN:

"Nature, impartial to her ends,
"When she made man the straongest;
"And justice, then to make amends
"Made woman's tongue the longest."

MR. WICKWIRE: Thank you.

MR. WHITELEY: Mr. Kennedy, your statement in regard to the air conditioning industry, you were advancing that, were you, as the exception to prove the rule that is suggested at the foot of page 1 and the top of page 2 of the brief?

MR. HUME: I think you brought the subject up by referring to an advertisement in the Globe and Mail dealing with air conditioning and Mr. Kennedy was seeking to explain it. It may do what you say. It was not submitted.

MR. WHITELEY: My question was whether the example you gave was the exception to prove this general principle at the top of page 2?

MR. KENNEDY: I would say it is the exception.

MR. WHITELEY: The statement at the top of page 2 says:

"The situation which has been created by this legislation precludes obtaining the dealer support necessary for the sales promotion to gain public acceptance of new products; . . ."

MR. KENNEDY: I would say this is the

exception, the ad mentioned by counsel today.

MR. WHITELEY: Not the ad, the effort of the industry?

MR. KENNEDY: The effort of the industry. I might further my statement, if you want me to: The normal channel for that type of business would have been to use the co-operative effort of hundreds of independent businessmen in Canada to promote the sale of window type air conditioners, which we have been unable to do due to the attitude of many retailers. It became essential for the manufacturer, or the American importer-distributor, to spend their money on the type of ad which Mr. Wickwire mentioned as appearing in today's Toronto morning paper.

MR. WHITELEY: Has any of the delegation examples which will support the association, not by exception but by positive relationship?

MR. WARD: I think the basic principle we have been trying to get across here, if I might attempt to interpret it, is that the manufacturer needs, and the industry needs - that might be better - a broad enough base of working co-operatively in the country to develop a new product at the rate necessary to keep the industry going along. At the present time the refrigerator business is down about 20% and the range business about 15 to 17%. The washing machine business is the same. New products are not occurring at the rate essential to offset that decline.

In the United States there seems to be a more rapid growth temporarily. Washing machines have been around 30,000 units a year; that should be increasing at this stage, and it undoubtedly would if the retailers in large enough numbers felt there was a large enough gross return for them to go out and risk their time and money to support that. Supply and demand will maintain prices. If you had a reasonable amount of protection in there so the retailer knew he was in a sound business and he could offer services I think we would get the support the industry needs to keep it going. I think that is pertinent to the point you are after.

THE CHAIRMAN: Can you explain what you mean by "a reasonable amount of protection"? You cannot maintain prices by resale price maintenance. What do you mean by "a reasonable amount of protection"?

MR. WARD: Well, the big problem today is that the pricing is so out of control that the price-cutting becomes extreme and the retailer, in order to try to maintain himself in business, will cut out everything he possibly can cut out. I am the first to agree with Mr. Wickwire that that is a good thing in general, provided it does not go beyond a certain amount. If a dealer cuts back on the amount of creative work he is doing, the amount of investment he is doing, it will hurt the industry. If that is multiplied by

2400 retailers that will hurt the industry. As to the level,we tried to suggest the operating expense level from the Dominion Bureau of Statistics. Mr. Jennings in his brief this morning put forth some alternatives.

THE CHAIRMAN: Those are the things you had in mind, by a reasonable amount of protection?

MR. WARD: Yes.

MR. HUME: I think the suggestion, throughout this whole brief, is that, given the rights which were in existence prior to the repeal or amendment of this Act, if someone was harming the industry - as we have heard today - they could be policed and the merchandise cut off and they would be brought into line. That is the type of protection this industry is suggesting. The same protection, the same rights as they had prior to January 1st, 1952. If someone was harming the surrounding dealers and interfering with the sales effort they could not get the merchandise and they would not be a bad boy.

THE CHAIRMAN: The manufacturer would be in a position to decide whether a dealer or distributor was acting in a way that was detrimental to the industry?

MR. HUME: Yes.

THE CHAIRMAN: And if he so decided he could then cut off that dealer or distributor, if he thought that was necessary?

MR. HUME: Yes.

THE CHAIRMAN: And the matter would be entirely in the hands of the manufacturer?

MR. HUME: Yes.

MR. WHITELEY: Mr. Kennedy, in relation to the air conditioning exception which you mentioned, the advertisement of which appeared in the Globe and Mail this morning, I suggest it contained the names of at least two stores which are cut-rate stores. They feature air conditioners. I presume from your observations we should take those as the exceptions?

MR. KENNEDY: I think in my first answer to Mr. Wickwire I mentioned the fact that at least one of the names appearing in that ad was that of a dealer who traded as a discount house.

MR. WHITELEY: There was the other one I point to in this ad.

MR. KENNEDY: I would not know about that one.

MR. WHITELEY: I notice on one side there is quite an illustration of a man suffering from the heat. Is that in the class of creative selling?

MR. KENNEDY: I would think it is. To be fair where we can I think it is.

MR. WHITELEY: On page 4 of the brief there is a single sentence which reads:

> "The public is losing confidence in the manufacturer's brand name."

Anyone care to comment on that?

MR. DARROCH: We might change that to read: "In the value of the manufacturer's brand name line."

"Customers are losing confidence in the value of the manufacturer's brand name line."

At one time you would buy X make of appliance and someone would say, "You got good value, it is a good make, it is valuable, it is dependable." They would recognize that you had paid a reasonable price for it and at that reasonable price you got good value. Today that confidence is being destroyed. When you go out and buy X manufacturer's product for $350.00 you have no confidence that you will not see it advertised next week for $275.00; so, you have no confidence that you are getting good value when you purchase it.

THE CHAIRMAN: If the regular price was $450.00 and you buy it at one of these cut-rate houses for $350.00, would not you feel reasonably satisfied that you had a pretty good buy?

MR. DARROCH: I think at one time you did but you have no assurance today that next week you would not see it advertised for $299.00.

THE CHAIRMAN: Even at that you would have done better than if the price was held at $450.00.

MR. DARROCH: The value of the manufacturer's brand name is being discarded; the public is losing confidence that when it buys X manufacturer's

products that it is getting good value. Perhaps you think right now you got good value because you got it at a lower price.

THE CHAIRMAN: I have not got any yet.

MR. DARROCH: But I do believe the manufacturers are losing their prestige and their standing with the public as a result of this cut-pricing which is going on.

MR. HUME: There is some evidence of people in this city who will only buy certain lines because they are the ones which have not been cut in price. Some people believe because it is cheap it is no good. Mr. Lightbown has an example of people who have refused to buy appliances because they are advertised at cut-prices and, therefore, they are no good

THE CHAIRMAN: If you raised the price they would buy them.

There have been instances cited this week where people would not buy because they thought the price was so low it could not be any good. In some of the presentations made this week there were statements that in some lines there were varying manufacturers' prices, depending on volume of purchases, and those prices sometimes varied quite considerably. I was wondering if you could tell us what the position is in regard to major appliances? First of all, do manufacturers normally sell through distributors or direct to the retailers, or a combination of both?

MR. HUME: Speaking of major appliances?

THE CHAIRMAN: Yes. We had an explanation this morning of one.

MR. HUME: A combination of both.

THE CHAIRMAN: Then, is it normal to have a greater discount than the normal discount where the sale is a large quantity rather than a small quantity?

MR. HUME: There are quantity discounts.

THE CHAIRMAN: Would it be fair to ask what those percentages run? I am not asking for any trade secrets because there may be differences between manufacturers.

MR. HUME: I would suggest, to regular operating dealers, the discounts would vary between 5 and 6% from the smallest discount to the largest discount.

THE CHAIRMAN: There would not be any more than 5 ro 6% between the person who buys the smallest number up to, say, a carload or ten carloads?

MR. HUME: Yes.

MR. LIGHTBOWN: I would say our largest discount would be 5%. We go up one at a time.

THE CHAIRMAN: Your larest discount would be 5%? One or two of the statements in the brief seemed to differ directly with other presentations. You refer to the large operator in a downtown area being able to operate on a lower per unit cost. One of the representations

made to us the other day was that a large operator, because of his heavy overhead, needed to have a larger discount from the manufacturer in order to sell at the same price, which is a different approach from the statement you have given. I wonder if any of you feel that statement might apply to other industries?

MR. LIGHTBOWN: I would say, sir, in the case of one or two of these price-cutters their operating expenses would be low because they have succeeded in raising their sales to tremendous figures.

THE CHAIRMAN: I was not speaking of price-cutters who multiply their volume many times over very quickly; I am speaking of the ordinary fairly large dealer who operates, usually in a central location, in a high rent district and has a good deal of operating expense. Statements were made to us the other day that a man in that position needed to have a larger margin per unit in order to do business, rather than the little fellow operating in a small town.

MR. HUME: I think that is true. That is generally the policy of the industry. They recognize the large dealer in the high rent district is doing the constructive job, the creative selling job; he needs a wider margin than the dealer in a small town or suburban location where he does not have the expense that the larger dealer does and he does not contribute as much as

the larger dealer.

THE CHAIRMAN: The large volume of sales the larger dealer has is not sufficient to make up for his extra expense?

MR. HUME: That is right.

MR. LIGHTBOWN: Other things enter into it, such as elevator service, garage service.

THE CHAIRMAN: If his volume was large enough he could still operate on an equal, or similar margin; but the statement just made means --

MR. SIMPSON: That is generally borne out by the Dominion Bureau of Statistics. Their figures show a much higher percentage necessary for incorporated stores as against unincorporated stores.

THE CHAIRMAN: That is not entirely true because you can have a small incorporated store.

MR. SIMPSON: Yes, but usually the incorporated store is much larger.

THE CHAIRMAN: Your statement in the brief means the large operator, who through cut prices multiplies his normal volume a good many times, is able to operate on a smaller cost per unit.

MR. SIMPSON: I think in those two papers attached to your brief you will find one ad where a certain dealer in the city, who had a million and a half dollars worth of business in the previous year, just registered four and a quarter millions.

THE CHAIRMAN: I wanted to make sure what the statement referred to.

MR. HUME: I do not see where in the brief that occurred, would you indicate where there is that suggestion?

THE CHAIRMAN: I have not the actual spot in mind but there was some reference to a large-scale operator being able to operate on a smaller cost per unit.

MR. WICKWIRE: I do not think it was in the brief, I think it came out of discussion.

MR. HUME: It may have come out of discussion. The Chairman was referring to a statement in the brief.

THE CHAIRMAN: On page 4, this is where it appears. I want to be quite certain what the sentence was intended to convey.

> "It is obvious that some of the larger dealers in the metropolitan areas can operate at a lower expense ratio than the average dealer but they can only do this by taking advantage of the public acceptance of the manufacturers' brand name and at the expense of the average dealer."

The large operators can do that. Then, you say they can only do so by taking advantage of the average dealer so you are only referring to that type of dealer.

MR. DARROCH: That is only the dealer who

does not provide the service. He gets the volume by plucking the apples out of somebody else's orchard; or, he is milking somebody else's cows, as Mr. Jennings said this morning.

MR. KENNEDY: Mr. Chairman, if I might offer a further suggestion: I think the answer some of the gentlemen gave as to the reason for quantity discounts, if that is right, that partially substantiates the fact that some high rent locations for the average dealer are more costly than, say, the small town dealer.

THE CHAIRMAN: The big discount is not given for that reason. Is not it given because it is justified on the basis of cost to the manufacturer, where he handles one order, one invoice, one shipment, one billing account?

MR. KENNEDY: That is correct.

THE CHAIRMAN: That is cheaper for him than handling fifty separate orders. That is a justification for him, not that the larger man needs the larger margin.

MR. KENNEDY: Yes, but it follows that the man is not taking the expensive downtown location unless he is in that category.

THE CHAIRMAN: He is not taking that location unless he thinks he can do enough business to warrant it.

MR. KENNEDY: Yes.

THE CHAIRMAN: Do any other members of the delegation wish to add anything?

MR. HUME: No, sir.

THE CHAIRMAN: Gentlemen, I wish to thank you for your presence in such numbers and for your courtesy in coming and giving us the benefit of your expert knowledge on many of these things.

We will have a five minute break at this time. There is, I believe, one other brief to be presented.

---Recess at 4.45 o'clock p.m.

Presentation by: JOSEPH J. CARROLL

---On resuming at 4.55 o'clock p.m., on Thursday, June 3, 1954.

THE CHAIRMAN: Gentlemen, if you are ready, the hearing will resume.

I understand we have a presentation to be made by Mr. Carroll.

Have you a brief or is it a statement you wish to make?

MR. CARROLL: I am just going to make a general statement. I hope not to take up too much time.

THE CHAIRMAN: Would you give us your full name and business?

MR. CARROLL: Joseph J. Carroll.

THE CHAIRMAN: And your business, Mr. Carroll, is?

MR. CARROLL: Well, say merchant, variety store. I am interested in one.

THE CHAIRMAN: In Toronto?

MR. CARROLL: Yes.

MR. WICKWIRE: Would you give us the address, Mr. Carroll?

MR. CARROLL: 1001 Queen Street East. Or 999. It is between the two.

THE CHAIRMAN: Yes, Mr. Carroll?

MR. WICKWIRE: Perhaps, Mr. Carroll, would you tell us about the nature of the merchandise

which you sell at your variety stores?

MR. CARROLL: In a variety store you handle tobacco, magazines, shelf groceries. You handle candy, ice cream, chocolate bars. You handle semi-drug lines. These are all part of a general variety store.

MR. WICKWIRE: These are all handled by you?

MR. CARROLL: Yes, these are all handled in this store.

THE CHAIRMAN: Any textile material?

MR. CARROLL: No, no textile. There could be lines of gifts as well.

Now, Mr. Chairman, I come today before this august body of the Royal Commission of Canada appointed by our Government. You are dealing, I understand, with loss-leaders to a great extent. You are dealing with loss-leaders and, therefore, I want to say I listened for fifteen or twenty minutes to the griefs and beefs and other things of the appliance industry. I have great sympathy for what has happened since two years ago, or just about that, when I entered my humble protest at that time to the Leader of our Government about the relaxation of price maintenance in this land, which had been a development over a span of two or three generations.

I want to get specific and down to bases quickly. Loss-leaders. I will deal with something I have right here which are loss-leaders;

or, at least, they are the basis of competition of the average retail merchant.

MR. FAVREAU: If the retail merchant had to meet these prices he would have to lose on them?

MR. CARROLL: Yes. I will point that out, what these things cost. I spoke to one of the sales managers of Heinz a year ago and, again, today. I got refreshed on today's prices in carload lots. I will deal specifically with Heinz Catsup. It is marked 25¢. I bought that at the A. & P. across the road from us.

THE CHAIRMAN: That is the retail price?

MR. CARROLL: That is the retail price. It is stamped right here (indicating), 25¢. This costs the store in which I am interested, buying in ten-case lots, from Heinz, on May 4 $3.02 per dozen. 25 1/6 a bottle. The best price you can buy that, with an extra rebate of 10¢ a case, is $2.73, which is 22½¢ a bottle delivered to your warehouse. From there it goes to their chain stores, which is the A. & P. organization. 22½¢ in carload lots. It was brought into their warehouses at that price and marketed through the ordinary channels of the trade and came into the store at 25¢. Is not that a loss-leader in relation to the independent merchant of this land? If it is not I would like to know what a loss-leader is. That merchant cannot survive, cannot stay in business.

Remember, I am not a theoretical retailer;

I am a practical one and I have been in retail merchandising since I was eleven years old. Thirteen of those years was with the Eaton Company of Toronto.

What are we going to do about this? Here is a bottle of catsup. This is an 11-ounce bottle. Here is a 13-ounce bottle by Campbell bought by my wife in Loblaw's last Saturday at 24¢. I tried to get from Campbells' sales manager the price of this bottle but he would not release it so I got the approximate price of the wholesale trade. I found out it costs, to buy that in two-dozen lots from the wholesale trade, 23½¢. They are selling it for 24¢. Tell me how the retail trade, the independent merchants of this land,are going to survive? Unless there is some form of check and policing of the business.

Now, I take up in my hand - and these are only examples, I could cover a thousand and one lines if time would permit me to have them here - an 11-ounce bottle of catsup which is being sold for 19¢ by the A. & P., their own brand. Maybe we do not know what that costs, we do not know their spread or margin. It could be 30%. Thus they create in the mind of the buying public that the average retail store is a profiteer. On this they most likely get their 25 or 30%, under their own brand name. They are selling millions of dollars in Canada and the United States. So does Campbell. It is not added to the basic cost of

producing that bottle of catsup. Therefore, their margin is greater, maybe 30%. It was amply proven in the Stevens Investigation of the Price Spread in 1934 and 1935 that some of these chain stores were making and profiteering at the expense of the public of this province, certain chain stores on lines which were not trade-mark identified lines.

My point is this: Here is today's ad of Dominion Store which just came out at noon hour. My wife was reading the newspaper before I left and she said, "There is Heinz catsup at 24¢". Then, they have features of other Heinz lines. Today's Toronto papers will tell you the story there. There is that story. What are we going to do about it? Are we going to sit back and allow our free enterprise system, which has been built up in this land by our forebearers and handed down to the next generation, whereby your son and mine and my grandson can go into business; or will it be in the hands of a few people who destroy the very fabrics of our economic system? In doing that they put in our minds the thought: Is the system worth fighting for? That is a bad thing for the next generation to think about, that the system their fathers fought for, maybe on the field of battle, is not worth fighting for because there is nothing left for them to do except maybe work, if they are under forty. If they are over these chain stores do not want you.

Now, that covers that, I think. I do not

want to keep you too long.

We have a law, it is known as 498 (a) of the Criminal Code, price discrimination. I am not dealing with other parts of the Combines Act. Unfortunately most merchants, even through co-operative effort and by getting together, are denied access to the direct market, contrary to the law of the land, which ever since Bennett brought it in in 1935 as a result of the Stevens Investigation no policing has been done with it, it has been left to itself and the result is, Mr. Chairman and gentlemen, to this day I do not think there is hardly a prosecution under that Act. If there have been they are so seldom that I think it would waken up a person who has dozed into unconsciousness if some action was taken in regard to this Act. I say we should put teeth into that Act.

There are sections there I do not want to discuss because maybe you know them equally as well as I do; but I do want to mention this: I tried to buy off Neilson's. I want to use Neilson's because I know Charlie Neilson, the President. We were associated in athletics in our younger days. I tried to buy off Neilson's direct, the same price as they were selling to the trade, but I could not buy, they would not sell. I could buy as much as a small wholesaler could sell. The law says I have the right to buy and yet they have the right to say to whom they are going

to sell. On one hand they say you are entitled to buy on the same terms as your competitor and yet I am not allowed to buy. They are not violating any law technically but morally they are because when I buy from them they give me 5¢ a box off for 50 boxes. Something should be done about that. I do not know whether this Royal Commission has anything to do with that but this Commission should see there is access to the direct market by every retail merchant in this land.

Eaton's started with nothing. Loblaw was the originator of under-the-counter rebates. I can name some of the firms who were in that. They got the advantage of under-the-counter, secret rebate. S. T. Wilson of this city sold me grocery products twenty-eight years ago and used a special tape for the special rebates. Their invoices showed the regular prices for shredded wheat, and all the rest, so that when Shredded Wheat came in to check the invoices everything was normal, $4.35; but I got a 5% discount, along with every member of the Maple Leaf chain, of which I was a charter member. Mr. Wilson told us he got it down to where he was buying for 3%, and then he jumped over and got on the direct list. That is how it happened in the early days of the food products during 1921, 1922 and 1923 until he got on the direct list.

What I am coming to is this: I would not have a fine, that is only a licence fee. It is

a licence fee to do the same thing after you have paid it. I think Kingston is the best place for people who break the criminal laws of this land and fines to make up for the expenses of the criminal courts of this land. Anyone who buys a quantity of merchandise equal to that bought by any wholesaler in this country should pay the wholesaler's price. If you can get together co-operatively you should be entitled to buy on the same basis as a wholesaler. Is there anything unfair about that? If you can do that, then you are in a position to meet competition, from wherever it may come. There is nothing unfair about that.

The next point is this: I believe access to the direct market should be the prerogative of every retailer. How can the retailer grow in strength and increase in volume and become a little more than just a one-horse stand - maybe become a good family sized business and maybe grow to a little larger than that - except they have the right to buy on the bed rock market. Eaton's started from nothing, started from Lakefield, Ontario. They failed once on Yonge Street and then came up to Queen and Yonge and made a success; but they would never have made a success if they had to buy from a jobber at a jobber's price.

I am a believer in price maintenance. It is the bed rock that prevents monopoly enterprise in this land. I believe that any manufacturer of a national trade-mark line has a right

and did have the right - he has in Great Britain and he has in the United States - to set a fair and reasonable price that his product is going to be marketed for, for the simple reason he is going into thousands of markets seeking and desiring them to handle his products, to act as a great link in the chain of merchandising from coast to coast in this land of ours. I say if that is so then he should have at least to give to these dealers who are going to handle his products, sometimes unknown until the demand is created for them, some protection against a person who wants to destroy what somebody else has built up. Therefore, I say the manufacturer has the right, ultimately should have and he did have up until two years ago, to set a fair, reasonable and just retail price to the ultimate consumer in this land. I do not want to enter into politics but I think our Liberal Government - of which I am a humble member - made a serious mistake that time. They did not go to the people to give us a chance to express ourselves, unless we went down to the Parliamentary Committee in Ottawa so, I say, this is one of the evils here of this land. These people might be making 30% on their own private trade lines, they might be making 40%; who knows? They use the line that is in every store that handles food products in our land and they wish to destroy it, to create the impression that everything they sell is on the same basis -

that is very wise - that the other independent merchant is charging exorbitant prices. If he got 28¢ for that he is only making 11% and his overhead might be that. How can he sell it for 28¢ when it is sold every day in the week by A. & P., and I guess Loblaw's follow the same pattern, and then we come along to the Dominion Store at 24¢. I understand A. & P. have an ad out for 25¢ today. How do they expect free enterprise is going to stand up against monopoly enterprise in this land?

I would like to deal with the sale of tobacco, which I say is a crime. Today's paper shows that the A. & P. are selling cartons of cigarettes at $2.99. That is something new, they never did that before. Never in the history of the tobacco business has tobacco in this land been sold in a carton of ten package. In the United States it is common practice but not here. Last week the A. & P. sold cartons of cigarettes for $2.99, which cost the retail merchant, because he cannot buy any other way, because the tobacco combine will not sell it to him - I say combine because there is a unity of action - $2.91, an 8¢ difference. 8¢ on $3.00. If he had to meet that competition he would be making about 3%. How is he going to stay in business? That is a thought that we can give. Imperial, Macdonald's, all the rest of them, practically refuse to sell you direct. Oh, no, they have that baloney

argument that periodically they can check the freshness of the stock. I would like to ask the merchants how often they check. They come very seldom into your store. Some of the retail men in the City of Toronto would like to see these men coming in to check the freshness of their stock, they have a lot of things they would like to say to them. They do not go in - they are wise not to - because if they did the merchant would make them feel uncomfortable for the rest of the day. Therefore, they do not go in.

Talking about freshness, that is all tommy-rot. They do not go into your store very often. How do they go behind your counter to check your stock? That does not happen; they go in and try to sell you some stock, that is what they are interested in.

My point is this: I would say, or suggest, that we open freedom of trade to the independent merchants of Canada through the right of access directly to the source of supply. If he can buy a certain quantity laid down which is fair to all, then he has a right to buy on that basis. I am in favour of the manufacturer having the right, and of the trade which acts as his medium of distribution, and in this land the retail man is essential to the marketing of any product, without him the product would stay in the warehouse, and, therefore, I would say the manufacturer should have the right on what you call trade

identified lines, and which the Heinz Company up to two years ago did, they kept their goods on a price maintained basis - that is why I am using Heinz today as an example. They did that and everyone was happy. There were no unhappy people that I knew of in the trade; but there is today. Do we want free enterprise to survive in this land? It is a challenge towards a democracy in action, to a democratic system working. If we believe in that let us readjust any wrongs. It is not too late yet, it is not too late yet to readjust the wrongs that are being heaped unjustly upon the retail merchants of this land.

If anyone wants to ask me any question --

MR. WICKWIRE: Just one or two short questions, Mr. Carroll. On the bottle of Heinz' you have exhibited. If my mathematics are correct I notice the A. & P. store made 10%?

MR. CARROLL: Approximately, yes.

MR. WICKWIRE: Do you know what the bottle of their own brand sells for that you demonstrated?

MR. CARROLL: This one here (indicating), it is 19¢; 11-ounce, 19¢.

MR. WICKWIRE: The Heinz product is 13?

MR. CARROLL: No, 11-ounce, 25. Heinz used to make a 13-ounce up to this year, or last year. Now they are making 11-ounce. Campbell's are still packing a 13-ounce bottle.

MR. WICKWIRE: You have no way of knowing what it costs the A. & P. on their branded line?

MR. CARROLL: No, I wouldn't know even who made it. There is no indication. It might be only a second grade catsup. Aylmer turns out a catsup they sell at 19 or 21.

MR. WICKWIRE: How does that one taste?

MR. CARROLL: I have not tasted this one. We generally buy in our home Heinz or Campbells, so I have not tasted this. We do not use Aylmer because we know Aylmer is not the quality product Heinz is.

MR. WICKWIRE: The only way you could compete with the A. & P. would be to join some sort of a group?

MR. CARROLL: That would not solve it. There used to be groups. The York Trading, I remember when it was formed away back during the first war so they could get on the direct list. They started on George Street in a little garage. The York Trading today, that is where they started. But, that is not a co-operative company now. It was bought out eight or nine years ago by Bowes Butter and Bowes Mince Meat and now it is operated purely as a competitive wholesaler.

To give you a frank opinion about this one (indicating), a wholesaler on this would have to make, to carry on business, 8 to 10% as a wholesaler.

MR. WICKWIRE: I suppose, Mr. Carroll, that there is quite a discrepancy in mark-ups in grocery items, they vary greatly, don't they?

MR. CARROLL: Oh, yes, there is a variation, slightly; but a man has to have an average profit or he will go out of business. Butter, a lot of these things do not show any margin, maybe only 6 or 7%. They only make 3 or 4¢ on butter.

MR. WICKWIRE: On other items the mark-up is higher?

MR. CARROLL: I would say the average mark-up -- at least, talking about mark-up, you have to keep your eye on the ball - the ball is chain store competition. If you get out of line you do not get any business. If you mark it too high you do not get any business and if you mark it too low you are put out of business because you lose money.

MR. WICKWIRE: Between articles in a chain store, some articles have a higher spread than others?

MR. CARROLL: Oh, yes. On the luxury lines, on which the people cannot make comparisons, they can be anything up to 30%.

MR. WICKWIRE: What I suggest is that although butter may have a mark-up of 3%, and some other articles, soap may have a higher mark-up?

MR. CARROLL: Soap is a low mark-up, too.

MR. WICKWIRE: Are there not some high mark-up lines?

MR. CARROLL: Yes, luxury lines which you cannot compare.

MR. WHITELEY: Caviar?

MR. CARROLL: Those things, when I say luxury lines, things people have not fixed in their mind on a competitive basis. Everyone has those, the consumer uses those to form his opinion and his judgment, whether logical or otherwise, as to whether a store is dear. "If they are dear on that, they are dear on everything", and the result is the retail merchants of this land are being crucified by unfair business ethics. That is unfortunate.

MR. WICKWIRE: Thank you, Mr. Carroll.

THE CHAIRMAN: Thank you, Mr. Carroll. I think we have the points you have raised. Some of them come under our enquiry of loss-leaders, others seem to be related to discrimination in price, but they are related.

MR. CARROLL: They all have relationship. Without being able to buy right how can you compete? If you cannot compete you are out of the market.

THE CHAIRMAN: We will adjourn now until 9.30 tomorrow morning.

---Whereupon the hearing adjourned at 5.25 o'clock p.m. on Thursday, 3rd June, 1954, until 9.30 o'clock a.m. on Friday, 4th June, 1954.

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